

ACTS
OF THE
SIXTH BIENNIAL SESSION
OF THE
GENERAL ASSEMBLY OF ALABAMA,
HELD IN THE
CITY OF MONTGOMERY,
COMMENCING ON THE
SECOND MONDAY 1N NOVEMBER, 1857.

JOHN A. WINSTON, Governor until December 1, 1857.

ANDREW B. MOORE, Governor.

CRAWFORD M. JACKSON, Speaker of the House of Representatives.

JAMES M. CALHOUN, President of the Senate.

MONTGOMERY:
N. B. CLOUD, STATE PRINTER.
1858.

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LAWS OF ALABAMA.

[No. 1.]

AN ACT

1857-'58

In regard to extending the time for the payment of Taxes
into the State Treasury.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the several tax collectors of this State be and they are hereby authorized to extend the time of collecting the taxes for the year 1857, to such periods as that they may complete their payments of State and county taxes by the first day of May next, by which said time they shall be required fully to pay up the whole amount of taxes for said year.

Payment of taxes
extended.

SEC. 2. *Be it further enacted,* That in order to carry out the intent and provisions of this act, the several tax collectors may levy upon and sell property for the payment of taxes at any time, or times, between the first days of March and May next, as they are at present authorized to do between the first of December and the first of March in each year.

Tax collectors
may levy.

SEC. 3. *Be it further enacted,* That the extension hereby given to the several tax collectors shall not in anywise operate to discharge, or release them, or any of them, from the performance of all and any of the duties imposed upon them by law: nor shall they, or any of their sureties, be discharged from the obligations and legal effect of the several bonds they have signed and executed for the performance of their duties, and faithful payment of moneys as such tax collectors.

SEC. 4. *Be it further enacted,* That the provisions of this act shall extend only to the fiscal year which commenced

Payment.

on the first day of March, 1857, and nothing herein contained shall exempt the several tax collectors from paying into the Treasury such sums of money as they shall have collected before the passage and approval of this act, which payment they shall make by the first day of March next. *Provided*, that if any person be about removing from the State or county, that taxes as against them shall be collected immediately.

SEC. 5. *Be it further enacted*, That 154 copies of this act be printed, and it shall be the duty of the Comptroller to send to each of the tax collectors and Judges of Probate in each county in this State immediately.

APPROVED, December 14, 1857.

[No. 2.]

AN ACT

To invest and dispose of the Two per cent. Fund.

WHEREAS: Under and by virtue of an act of Congress of September 4, 1841, the two per cent. fund of the nett proceeds of the sales of the public lands in the State of Alabama, was "relinquished to said State of Alabama" upon the following proviso, to wit: "That the legislature of said State shall first pass an act, declaring their acceptance of said relinquishment, and also embracing a provision to be unalterable without the consent of Congress, that the whole of said two per cent. fund shall be faithfully applied, under the direction of the legislature of Alabama, to the connection by some means of internal improvement of the navigable waters of the bay of Mobile with the Tennessee river, and to the construction of a continuous line of internal improvements from a point on the Chattahoochee river, opposite West Point, in Georgia, across the State of Alabama in a direction to Jackson, Mississippi." *And whereas*, The legislature of Alabama, on the 29th day of December, 1841, did accept the relinquishment of the said two per cent. fund on the terms and conditions in said act of Congress expressed.

AND WHEREAS, The legislature of Alabama did, on the 4th day of February, 1850, designate and select, for the connection of the navigable waters of the bay of Mobile with the Tennessee river, the Alabama and Tennessee Riv-

ers Rail Road, and the Tennessee and Coosa Rail Road, and did appropriate, for the purpose of carrying out said act of Congress, all of one-half of the said two per cent. fund on hand and accruing up to that date, and to the extent of said appropriation, took the same in stock of said company.

AND WHEREAS, The legislature of Alabama, by act approved 7th of February, 1850, did recognize the Alabama and Mississippi Rivers Rail Road as a part of the line of internal improvements, contemplated and described in said act of Congress, from West Point, Georgia, in the direction of Jackson, Mississippi: Now, for the purpose of carrying out, in good faith, the said act of Congress—

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That one-half of the two per cent. fund on hand in the treasury of the State of Alabama, on the 1st day of December, 1857, be set apart and appropriated to the Alabama and Tennessee Rivers Rail Road Company, and the same be taken as stock in said company, according to the provisions and restrictions set forth in the act of the Legislature, approved 4th day of February, 1850. Fund set apart.

SEC. 2. *Be it further enacted,* That the said fund hereby appropriated and subscribed as stock in said company, shall be applied by said company in paying for iron rails, to be laid in the further construction of said rail road from the ninety mile station, the present terminus of said road; and upon said company giving bond and security in the sum equal to the fund obtained under the first section of this act, to be approved by the Governor for the faithful application of said money, according to the provisions of this act, then the Governor shall issue his warrant on the treasury, authorising the payment of said fund to said company.

SEC. 3. *Be it further enacted,* That the remaining one-half of the two per cent. fund on hand in the treasury of the State of Alabama on the 1st day of December, 1857, be, and the same is by this act loaned to the Alabama and Mississippi Rivers Rail Road Company upon like security, time and interest, as is provided for in an act entitled an act to aid the Alabama and Mississippi Rivers Rail Road Company, approved 9th February, 1852.

SEC. 4. *Be it further enacted,* That said Alabama and Mississippi Rivers Rail Road Company, before receiving the loan provided for in the preceding section, shall execute a bond in such amount as the Governor may prescribe, Governor to prescribe bond.

with ample personal security to be approved by the Governor, conditioned that the amount which may be received by virtue of this act, shall be faithfully applied for the use and benefit of said Alabama and Mississippi Rivers Rail Road, and shall execute, by resolution of its board of directors, a release of all claim upon that portion of the two per cent. fund, provided to be loaned to it, by act approved 17th February, 1854, so that the same may be appropriated as hereinafter provided for, and the Governor, whenever the terms of this act are complied with, shall issue his warrant on the treasury authorizing and directing the payment of said one-half of said two per cent. fund to said Alabama and Mississippi Rivers Rail Road Company, or its lawful agent.

SEC. 5. *And be it further enacted*, That the portion of the two per cent. fund loaned to the Montgomery and West Point Rail Road Company, under the provisions of the act approved the 17th day of February, 1854, is hereby loaned to the Alabama and Florida Rail Road Company of the State of Alabama, at the expiration of the time for which it is loaned to said Montgomery and West Point Rail Road Company, upon the same terms and for the same length of time it was originally loaned to the said Montgomery and West Point Rail Road Company, by the act approved the 23d of January, 1843: *Provided*, That said Alabama and Florida Rail Road Company shall procure such an amendment to their charter as will authorize the extension of their road from Montgomery to Selma, and will commence the grading of the same on or before the 1st day of March, 1860: *And provided further*, That said company shall execute a bond to be approved by the Governor of the State of Alabama, conditioned to faithfully apply said fund to the construction of the said road between Montgomery and Selma.

Amendment.

SEC. 6. *And be it further enacted*, That nothing contained in this act shall be so construed as in anywise to interfere with any existing appropriation, or any appropriation made by this or any subsequent legislature from the said two per cent. fund, accruing or coming into the treasury after the first day of December, 1857.

SEC. 7. *Be it further enacted*, That the sum of ten thousand dollars be, and the same is hereby appropriated out of the three per cent. fund now in the treasury, to be expended and applied under the direction of the Governor in making a reconnoissance for a route for a rail road from the Tennessee river to some point on the Alabama and Ten-

nessee Rivers Rail Road, and to make a thorough survey of the most practicable route to connect the Tennessee river with the navigable waters of the Mobile bay, with reference to the development of the mineral region of the State, which said reconnoissance and survey must be made in the year 1858; report thereof make to the Governor, which report shall contain a full statement of the length of the route, grades, cost per mile, together with all the particulars that are usually observed in surveys of this description.

APPROVED, February 8, 1858.

[No. 3.]

AN ACT

To accept a grant of lands to the State of Alabama, and to carry into execution the trust conferred upon the State of Alabama by an act of Congress entitled "An Act granting public lands, in alternate Sections, to the State of Alabama and Florida, to aid in the construction of certain Rail Roads in said States," approved 17th May, 1856.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the lands, rights, powers and privileges granted to and conferred on the State of Alabama by an act of Congress entitled "An act granting public lands, in alternate sections, to the States of Florida and Alabama, to aid in the construction of certain rail roads in said States," approved May 17, 1856, be, and the same are hereby accepted upon the terms, conditions and restrictions in the said act of Congress contained.

Grant accepted.

SEC. 2. *Be it further enacted,* That so much of the lands, interests, rights, powers and privileges as are or may be granted and conferred in pursuance of the act of Congress aforesaid, to aid in the construction of a rail road from Montgomery, in this State, to the boundary line between Florida and Alabama, in the direction of Pensacola, and to connect with the road from Pensacola to said line, are hereby disposed of, granted to and vested in and conferred upon the "Alabama and Florida Rail Road Company," a corporation created and existing under the laws of this

Specification.

State, for the purposes and under the restrictions specified in said act of Congress; and as soon as said company shall execute and deliver to the Governor of the State a bond faithfully to use the said lands for the purposes of their donation, and to abide by and perform the provisions and conditions in the said act of Congress contained.

APPROVED, December 19, 1857.

[No. 4.]

AN ACT

To accept a grant of lands to the State of Alabama, and to carry into execution the trusts conferred upon the State of Alabama by an act of Congress entitled "An act making a grant of lands to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands, in alternate sections, to the State of Alabama, to aid in the construction of a certain rail road in said State," approved March 3, 1857.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the lands, rights, powers and privileges, granted to and conferred upon the State of Alabama by the said act of Congress to aid in the construction of a rail road "from the line of Georgia, on the Chattahooche river, to the city of Mobile, Alabama, through the counties of Henry, Dale, Coffee, Covington, Conecuh, Baldwin, and Mobile," and a branch rail road from Eufaula to Montgomery, through the counties of Barbour, Pike, Macon, and Montgomery," be, and the same are hereby accepted on the terms, conditions and restrictions in the said act of Congress contained.

Direction.

SEC. 2. Be it further enacted, That so much of the lands, rights, powers, and privileges as are or may be granted and conferred in pursuance of said act of Congress, to aid in the construction of a rail road from the line of Georgia, on the Chattahooche river, to the city of Mobile, and a branch rail road from Eufaula to Montgomery, in this State, through the counties named in the first section of this act, are hereby granted to and conferred upon the Savannah and Albany Rail Road Company, chartered by the State of

Alabama by an act entitled "An act to authorize the Savannah and Albany Rail Road Company to extend their rail road from the line of Georgia, on the Chattahooche river, to the city of Mobile, Alabama, and to extend a branch road from Eufaula to Montgomery, approved December twentieth, eighteen hundred and fifty-three, for the purposes and under the restrictions specified in said act of Congress, as soon as said company shall execute and deliver to the Governor of this State, a bond faithfully to abide by and perform the provisions and conditions in said act of Congress contained.

SEC. 3. *And be it further enacted*, That the priority of the passage and approval of this act shall not be so construed as to prejudice the rights which any other rail road company may have under any act of Congress to any part of said lands, it being the true intent and meaning of this act that the rights of the different rail roads shall be left where they stand under the acts of Congress making donations for their respective benefit.^{Intent.}

APPROVED, February 5, 1858.

[No. 5.]

AN ACT

To accept a grant of land to the State of Alabama, and to carry into execution the trusts conferred upon the State of Alabama by an act of Congress entitled "An act granting public lands, in alternate sections, to aid in the construction of certain rail roads in said State," approved June 3d, 1856.

WHEREAS, There has been granted to the State of Alabama, certain lands to aid in the construction of certain railroads in said State, as will more fully appear by reference to two acts of the Congress of the United States, one of which is entitled "an act granting public lands, in alternate sections, to the State of Alabama to aid in the construction of certain railroads in said State," approved June 3, 1856, and the other of which acts is entitled "an act to amend an act granting public lands, in alternate sections, to the State of Alabama to aid in the construction of certain railroads in said State," approved March 3, 1857. *And whereas*, By said two acts of Congress, certain of said lands are granted

to the State of Alabama, in trust for the benefit of the Tennessee and Alabama Central Railroad. Therefore—

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the lands, rights, powers, and privileges, granted to, and conferred upon the State of Alabama by the said act of Congress, to aid in the construction of the Girard and Mobile Rail Road from Girard to Mobile, Alabama, be, and the same are hereby accepted upon the terms, conditions, and restrictions in the said act of Congress contained.

Terms.

SEC. 2. *Be it further enacted,* That so much of the lands, powers, and privileges as are or may be granted and conferred in pursuance of said act of Congress, to aid in the construction of a rail road from Girard, in this State, to Mobile, are hereby granted to, and conferred upon the "Mobile and Girard Rail Road Company," a corporation enacted and existing under the laws of this State, for the purposes and under the restrictions specified in said act of Congress, as soon as said company shall execute and deliver to the Governor of this State a bond faithfully to use said lands for the purposes of its donation, and to abide by and perform the provisions and conditions in the said act of Congress contained.

SEC. 3. *Be it further enacted,* That the priority of the passage and approval of this act shall not be so construed as to prejudice the rights which any other rail road company may have under any act of Congress to any part of said lands, it being the true intent and meaning of this act that the rights of the different rail roads shall be left where they stand under the acts of Congress making donations for their respective benefit.

APPROVED, February 1, 1858.

[No. 6.]

AN ACT

To provide for the further extension of debts due for the purchase of school lands in the State of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the trustees of the public schools be, and they are hereby authorized to extend the time of payment of all notes that are or may become due for the purchase of school lands, for the period of two years, from the first day of March, 1858: *Provided,* That the maker or makers of said notes shall execute new notes, with good and sufficient security, one of the terms of which notes shall be that the interest thereon shall be paid annually, on the first day of March: *Provided further,* That the said new notes shall be transmitted to the superintendant of education, to be filed in his office within six months after the maturity of those of which they were given in extension. Extension.

SEC. 2. *Be it further enacted,* That it shall be the duty of the superintendent of education to withhold from suit for the period of six months after maturity, all notes in his possession, and that after the expiration of that time, if new notes have not been filed in his office in their stead, he shall deliver them to the attorney general for suit, whereupon said notes shall not be subject to extension under this act. Duty of Superintendant.

SEC. 3. *Be it further enacted,* That the notes so to be taken shall be a lien on said sixteenth sections for the purchase money for which they were given, and they shall have the force and effect of a mortgage with a power of sale, and are hereby exempted from laws of registration; and said trustees may at any time, if interest due is not paid on such notes, or they shall consider it necessary to secure the payment of the principal when due, from the ultimate danger of loss, proceed to sell such land at public sale at auction, having first given sixty days notice of the time and place of sale by advertisement posted at three or more public places in said township, and shall out of the proceeds of said sale, pay the amount of principal and interest and the expenses of said sale, and if there should be a surplus after paying them, shall pay over such surplus to the maker of said note, or other person who may be entitled to receive the same. Mortgage.

SEC. 4. *And be it further enacted,* That whenever any notes have been given in conformity with the provisions of

Duty of Trustees.

this act, it shall be the duty of the trustees approving the same, to deliver them to the superintendent of the county to which their township belongs, to be approved by him and forthwith transmitted to the superintendent of education; *Provided*, That the second section shall not be so construed as to prevent the superintendent of education from ordering suit on notes at any time after maturity when so ordered by the trustees of the township or the sureties of said notes.

APPROVED, February 3, 1858.

[No. 7.]

AN ACT

To repeal "an act entitled an act to make the Circuit Court Judges rotate throughout the State," and for other purposes.

Repeal

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an act entitled an act to make the circuit court judges rotate throughout the State, approved 13th February, 1856, be and the same is hereby repealed.

Proviso.

SEC. 2. *Be it further enacted*, That section 630 of the Code of Alabama is hereby re enacted: *Provided*, That the provisions of said section shall not extend to the 6th judicial circuit. And any circuit judge violating the provisions of this act, shall forfeit one year's salary: *Provided*, That such judge so violating the provisions of this act may relieve himself from the penalty herein imposed by filing with the comptroller his affidavit that he was prevented without any fault or neglect on his part from so interchanging circuits.

APPROVED, January 13, 1858.

[No. 8.]

AN ACT

To exempt burying grounds from sale under execution or other legal process.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter all burying grounds and lots set apart for the interment of deceased persons, and the improvements and appurtenances to the same pertaining, shall be reserved for the use of the families to whom they respectively belong, and exempt from levy and sale under execution or other legal process. Exempt.

APPROVED, February 2, 1858.

[No. 9.]

AN ACT

To provide for printing the Reports of Comptroller of Public Accounts, State Treasurer, and Inspectors of the Penitentiary.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the comptroller of public accounts, the treasurer of the State, and the inspectors of the penitentiary, as soon as practicable after the close of the fiscal year, next preceding the meeting of the General Assembly, have printed of their respective reports, at contract rates, for the use of the General Assembly next thereafter convening, the number of copies following, to-wit: Of the comptroller and treasurer, each, two thousand copies, and of the inspectors of the penitentiary five hundred copies; each of which reports shall be condensed as far as consistent with an intelligent understanding of their material parts, by the officers making the same. Printing.

APPROVED, February 3, 1858.

[No. 10.]

AN ACT

To secure the State against fraudulent claims.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the close of the present session of the General Assembly, no claim against the State shall be allowed, or ordered to be paid by the Legislature until satisfactory evidence be produced by affidavit only, administered and authenticated, that the same is justly due and unpaid.

Affidavit.

SEC. 2. *Be it further enacted,* That the testimony in each case, so produced, shall be filed with the secretary of state at the close of each session.

APPROVED, February 8, 1858.

[No. 11.]

AN ACT

To provide for the enclosure and improvement of the grounds of the Alabama Insane Hospital, and supplying the building with furniture.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That out of any funds in the treasury not otherwise appropriated, there shall be set apart and placed to the credit of the Alabama Insane Hospital fund, the sum of five thousand dollars, for the purpose of purchasing and supplying furniture for the same so far as may be deemed necessary by the trustees, for carrying said Hospital into operation, and also for enclosing forty acres of the grounds around said building with a plank fence and a live hedge.

Fund set apart.

SEC. 2. *Be it further enacted,* That the said trustees are hereby authorized to draw from any money heretofore placed to the credit of the Alabama Insane Hospital fund for the purpose above expressed.

SEC. 3. *Be it further enacted,* That the manner of drawing money from the treasury for the purposes of this act shall be the same as is provided by an act entitled an act making appropriations for the completion of the Alabama Insane Hospital, passed 5th February, 1856.

SEC. 4. *Be it further enacted*, That the trustees shall report to the next session of the Legislature what disposition is made of the money appropriated by this act, and former acts of appropriation, to the Alabama Insane Hospital. Trustees to report.

APPROVED, February 6, 1858.

[No. 12.]

AN ACT

To authorize the Governor of the State to issue a patent in a certain case.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened*, That the Governor of the State be and he is hereby authorized to issue to Samuel Beene of Dekalb county, a patent for the south-west quarter of section sixteen, in township four, of range ten, east, upon satisfactory proof being made that said Samuel Beene is the rightful owner of the same, and that the State has received full payment for said tract of land. Governor to issue Patent.

APPROVED, February 6, 1858.

[No. 13.]

AN ACT

To regulate and define the duties and liabilities of railroad companies in this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That it shall be the duty of the engineer, or other persons having the control of the running of a locomotive on any railroad in this State, to blow the whistle or ring the bell, at least one-fourth of a mile before reaching any public road crossing, or any regular depot or stopping place on said road, and continue to blow said whistle or ring said bell, at intervals, until he passes said road crossing, and until he reaches said depot or stopping place. It shall likewise be his duty to blow the whistle, or ring the bell im- Duty of engineer.

Duty of engineer.

mediately before, and at the time of leaving such depot or stopping place. It shall also be his duty to blow the whistle or ring the bell before entering any curve crossed by a public road on a cut where he cannot see at least one-fourth of a mile ahead, and approach and pass such crossing in said cut at such moderate speed as to prevent accident in the event of an obstruction at the crossing; he shall also be required to blow his whistle or ring his bell on entering into the corporate limits of any town or city, and continue to do so until he has reached his destination or passed through said town or city; he shall also do the same leaving said town or city. It shall also be his duty on perceiving any obstruction on the track of the road, to use all means within his power, known to skillful engineers, (such as the application of his brakes, and the reversal of his engine,) in order to stop his train.

SEC. 2. *Be it further enacted*, That any engineer, or other person having the control of the running of a locomotive on any railroad, who shall fail to perform any of the duties required of him by the first section of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine, of not less than fifty, nor more than one thousand dollars, and imprisonment in the county jail for not more than twelve months, one or both, at the discretion of the jury trying the case.

R. R. Co., liable.

SEC. 3. *And be it further enacted*, That all railroad companies in whose employment said engineers are at the time of any accident occasioned by failure to comply with the provisions of the first section of this act, shall be liable for all damage done to persons, stock, or other property, on account of said failure to comply with the requirements of this act, or on account of any negligence whatever on the part of the railroad company or its agents, and in no other case.

APPROVED, February 6, 1858.

[No. 16.]

AN ACT

To legalise the suspension of payments by the Mobile Savings Company.

SECTION 1. *Be it enveted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the suspension of payment of deposits by the "Mobile Savings Company," be, and the same is hereby sanctioned, upon the condition that the said company shall resume payments of deposits in full, on or before the 15th of February, 1858, and continue thereafter to redeem all of their liabilities, and pay all their deposits; and upon the further condition that the said company shall within twenty days after the passage of this act, notify the Governor, in legal form, of their acceptance of the same. Suspension sanctioned.

SEC. 2. *Be it further enacted,* That the said Mobile Savings Company, shall make to the comptroller of public accounts, a return once in every year, of its true situation, showing the amount of its assets and liabilities, and of what they consist. Yearly returns.

SEC. 3. *Be it further enacted,* That the Governor of the State shall appoint biennially three commissioners, whose duty it shall be to examine the moneys and books of the said Mobile Savings Company and otherwise examine into the condition thereof and make report thereon, within ten months after their appointment. The said company shall furnish all information to the said commissioners necessary for an accurate examination, and shall pay the said commissioners four dollars per day each, not exceeding fifteen days each, and the commissioners shall each make affidavit before an acting justice of the peace, that they have not, previous to the time of their visit, communicated to the officers of said Savings Company, the time when they would visit said Company for the purpose of examination as aforesaid, which affidavit shall be filed in the office of the secretary of state. Governor to appoint Commissioners.

APPROVED, February 6, 1858.

[No. 17.]

AN ACT

To amend an act entitled an act to extend the charter of the Mobile Bank.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the first provision of an act entitled an act to extend the charter of the Mobile Bank, approved, February 9th, 1852, be and the same is hereby so amended as to provide, that the said Bank of Mobile may discount notes or bills running more than six months and not more than nine months, at a rate not to exceed seven per centum per annum, and notes or bills running nine months or more, at a rate not exceeding eight per centum per annum.

APPROVED, February 6, 1858.

Bank may discount.

[No. 18.]

AN ACT

To amend the act to incorporate the Southern Bank of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the capital stock of the Southern Bank of Alabama shall be increased to sixteen hundred and sixty seven thousand dollars, divided into shares of one hundred dollars each, two fifths of which shall be reserved for the State of Alabama.

Capital stock increased.

SEC. 2. *Be it further enacted,* That of the additional capital of five hundred thousand dollars, created by the previous section for individual stockholders, one half, that is two hundred and fifty thousand dollars shall consist of the present reserved fund of said bank, to be divided among the exhisting stockholders of the bank, in the proportion of one share of new stock for two shares of old stock, fractional half shares may be consolidated under such regulations as may be made by the Bank.

SEC. 3. *Be it further enacted,* That for the remaining two hundred and fifty thousand dollars of new stock, books of subscription may be opened at the said bank under the superintendence of two commissioners to be appointed by the directors, under such regulations as they may make,

Books of subscription.

giving at least thirty days notice of the same in two of the newspapers published in the city of Mobile. One hundred dollars per share to be paid in cash at the time of subscribing. The books to be kept open fifteen days, unless the said amount of two hundred and fifty thousand dollars be sooner subscribed.

SEC. 4. *Be it further enacted*, That the new stock of said bank shall have all the rights and privileges and be under all the restrictions of the present charter as applied to the old stock.

SEC. 5. *Be it further enacted*, That all acts or parts of acts, in so far only as the same shall or may conflict with the provisions hereof, be and the same are hereby repealed.

SEC. 6. *Be it further enacted*, That the tax which said bank shall hereafter pay annually as a bonus, shall be sixty ^{Tax.} cents on each one hundred dollars worth of stock in said bank, and said bank shall accept the provisions of this section as a part of its charter before it shall be entitled to the benefit of this act.

APPROVED, February 8, 1858.

[No. 19.]

AN ACT

To destroy the bills of the State Bank and Branches.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the bills and notes of the State Bank and Branches now in the State Treasury, and also those hereafter received, shall be burned as hereinafter directed. ^{Bills to be burned.}

SEC. 2. *Be it further enacted*, That the said bills or notes shall be registered by their denominations, letters, numbers, dates, &c., as far as they can be ascertained, under the heads of the several Banks and Branch Banks, by which issued, by the treasurer, in a book to be provided for that purpose; and after the same shall be so registered, it shall be his duty to burn the said bills or notes, in the presence ^{By whom.} of the Governor, Secretary of State, and Comptroller of Public Accounts, who must certify the same in the book in which the said bills or notes are registered, and the Comptroller of Public Accounts is hereby authorized to draw a

special warrant in favor of said treasurer for the amount of said notes or bills to be burned as aforesaid, which said warrant shall be entered as a credit to the treasurer on the books of the comptrollers office.

SEC. 3. *Be it further enacted*, That for registering said bills or notes the treasurer shall be paid such reasonable amount as the Governor may order, and the comptroller shall, on such order, draw his warrant on the treasurer for the same.

SEC. 4. *And be it further enacted*, That the burning shall take place as soon as practicable, of those now in the treasury as well as those hereafter received.

APPROVED, January 22, 1858.

[No. 20.]

AN ACT

To dispose of the remaining affairs of the State Bank and Branches, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That all laws now in force relative to the settlement of the affairs of the State Bank and Branches, be and the same are hereby continued in force until the adjournment of the next session of the Legislature, except as hereinafter provided; and that John Whiting be, and he is hereby appointed commissioner and trustee, under this act, with all such powers as were heretofore confided to him by law as such commissioner and trustee, to close the affairs of the State Bank and Branches, except as such powers may be limited by the provisions of this act: *Provided*, The said commissioner shall be required to execute a bond, as now required by law, with sureties satisfactory to the Governor, in the sum of one hundred thousand dollars, for the faithful performance of his duties.

John Whiting
commissioner.

Governor to ap-
point attorney.

SEC. 2. *Be it further enacted*, That the Governor of the State is hereby authorized and required to appoint an attorney for the State Bank and each of the Branch Banks, who shall take charge of the debts, assets and property of every kind, of the bank or branch bank for which he was appointed, and sell and collect the same without delay, under the same restrictions and with the same authority and pow-

ers heretofore conferred upon the commissioner and trustee. And each such attorney shall be required to give bond, with security approved by the Governor, in such penalties as the Governor may prescribe, conditioned for the faithful discharge of his duties.

SEC. 3. *Be it further enacted*, That each such attorney shall be required to make quarterly reports to the comptroller of public accounts, of all receipts, collections and compromises made by him, and of all sales of property made by him, and shall deposit the proceeds of the same in the State treasury, or in one of the banks chartered by this State, to the credit of the State treasurer, and each such attorney shall receive as compensation for his services five per cent. on all collections of debts classed good, and five per cent. on all sales of property, and fifty per cent. on all collections, sales or compromises of all debts classed bad, doubtful or unknown: *Provided*, That said attorneys shall pay all costs taxed against the bank that may be incurred in the prosecution of suits for the collection of debts classed bad and doubtful, unless suit be ordered by the Governor.

Attorney to
make quarterly
returns.

SEC. 4. *Be it further enacted*, That it shall be the duty of the said commissioner and trustee to deposit in the State treasurer any and all sums of money in either of said banks, as special deposits, or in half notes redeemed by either of the said banks.

Duty of commis-
sioner and trust-
ee.

SEC. 5 *Be it further enacted*, That the said commissioner and Trustee, and each of the said attorneys shall be required to make a full and complete report of all their acts and proceedings to the next General Assembly.

SEC. 6. *Be it further enacted*, That the said commissioner and trustee shall receive for his services such compensation as may be fixed by the next General Assembly.

APPROVED, February 6, 1858.

[No. 21.]

AN ACT

To legalize the suspension of specie payments by the Central and Commercial Banks of Alabama.

Suspension legalized.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the suspension of specie payments of the Central Bank of Alabama and the Commercial Bank of Alabama be, and the same is hereby legalized on the following conditions :

Requirements.

First. That said banks pay as hereinafter provided, of their bills which may be in the State treasury on the first day of January, 1858, the sum of fifty thousand dollars, with interest thereon from that day until payment at the rate of eight per cent. per annum ; and if there should not be on said first day of January, 1858, the aforesaid amount of the bills of said banks in the State treasury, then the said banks shall pay as hereinafter provided, all of their bills which may be in the State treasury as aforesaid on the day and year aforesaid, with interest at the rate aforesaid until the payment.

Requirements.

Second. That said banks pay as hereinafter provided of their bills, which may be in the State treasury, on the 1st day of April, 1858, the further sum of two hundred thousand dollars, with interest thereon from the first day of January, 1858, until paid, at the rate of eight per cent. per annum, and if there should not be on the first day of April, 1858, the said amount of two hundred thousand dollars of the bills of said banks in the State treasury, then said banks, respectively, pay all their bills which may, on said first day of April, 1858, be in the State treasury, with interest at the rate aforesaid, from the first day of January, 1858, until the payment.

Specifications.

Third. That the payments required by the two preceding clauses be made as follows: The first, at any time between the 1st day of January, 1858, and any day before the 15th day of February, 1858, in which the same may be required by the commissioner and trustee of the State bank and branches. The second at any time between the first day of April, 1858, and any day before the 15th day of May, 1858, in which the same may be required by said commissioner and trustee; that the payments be made by said banks severally and rateably in proportion to the amount of the bills of each, which may be in the State Treasury on the first day of January, 1858, and the first day of

April, 1858; that each of said payments be made in specie to the said commissioner, or by said banks placing to his credit in specie, should he so direct, the several amounts required by the two preceding sections in this, to be paid by them respectively, at such bank or other place in the city of New York, Mobile or New Orleans, as the said commissioner and trustee may, in writing, direct, without any expense to the State; and the said banks shall, in all the matters in this third paragraph required of them, be governed by the choice which said commissioner and trustee shall make.

Where paid.

SEC. 2. *And be it further enacted*, That the treasurer of the State of Alabama shall notify the presidents or cashiers of said banks, respectively, of the amount of the bills in the State treasury; of the bank to the president or cashier of which the notice shall be given on the said 1st day of January, 1858, and the said first day of April, 1858, and of the amount, exclusive of interest, required to be paid by each of said banks, under the preceding sections; that the notice of the first payment required to be made, shall be given by the tenth (10th) day of January, 1858, and that the notice of the second payment required to be made, be given by the 10th day of April, 1858.

Notice of payment.

SEC. 3. *And be it further enacted*, That the commissioner and trustee of the State bank and its branches, give the directions provided for in the third clause of the first section of this act, to the president or cashier of said banks, respectively, by the 10th day of January, 1858, and by the 10th day of April, 1858.

SEC. 4. *Be it further enacted*, That on said banks, or either of them, making the payments which may be required of them respectively, it shall be the duty of the commissioner and trustee to give to the presidents of said banks, respectively, or to the president of the bank which makes the payments which may be required of it under the provisions of this act, a certificate of the same. That such certificate shall be given after each payment is made. On the production of said certificate it shall be the duty of the comptroller of public accounts to draw his warrant on the treasurer of the State in favor of the presidents of each of said banks, for the amounts of the bills of their respective banks, which may have been paid by them, under the provisions of this act, and said certificates, with the receipts of said presidents, shall be filed in the office of said treasurer as vouchers.

Certificate of payment.

SEC. 5. *And be it further enacted*. That from and after the

first day of January, 1859, the said Central Bank and the said Commercial Bank shall not issue, re-issue, pay out or put in circulation, any bill or note of a less denomination than five dollars.

Rights retained.

SEC. 6. *Be it further enacted*, That nothing in this act contained shall in anywise abridge, take from, or contract the rights of any holder of any bill or bills, notes, checks or other issues of said banks, or in anywise affect any right or remedy which said holder had by virtue of the charters, or may hereafter have against said banks, or any of the officers thereof, but all such rights and remedies shall remain as contained in section 18, of "an act" to incorporate the Central Bank of Alabama, approved, February 17th, 1854, and as contained in section 18 of "an act" to incorporate the Commercial Bank of Alabama, passed February 9th, 1856, and further, that all rights guaranteed by the constitution to the bill holders of said suspended banks, are hereby declared to remain in full force and effect.

SEC. 7. *Be it further enacted*, That the said Central Bank and the said Commercial Bank resume specie payment by the fifteenth day of November, 1858.

SEC. 8. *Be it further enacted*, That the Central Bank of Alabama and the Commercial Bank be required to procure and have on hand by the fifteenth day of November, 1858, and always thereafter to keep on hand gold and silver coin in a proportion of not less than one-third of the amount of the bills it shall have in circulation, and if withdrawn shall immediately proceed to replace the deficiency.

Duty of Governor.

SEC. 9. *Be it further enacted*, That it shall be the duty of the Governor to ascertain if the several conditions and provisions imposed by this act on the said Central Bank of Alabama and the said Commercial Bank of Alabama, have been performed and complied with by said banks, and on the failure of either of said banks to perform any of said conditions, then the charter of the bank so failing is hereby declared to be forfeited, and it is hereby made the duty of the Governor to institute, through the proper officers, and such counsel as he may associate with them, the necessary legal proceedings to obtain a judgement of forfeiture against the bank or banks so failing.

SEC. 10. *Be it further enacted*, That on the failure of said Central, or the said Commercial Bank, to make the payments required of them respectively, by the first section of this act, or on the failure of either of said banks to resume specie payments within the time required by the 7th sec-

tion of this act, it shall be the duty of the Governor to have all the bills of the said bank or banks so failing presented for payment and protested in accordance with the charters of said bank or banks, and to direct the attorney general or other solicitor for the State, and such counsel as he may associate with him, to institute as early as may be possible the proper proceedings at law or equity, to obtain judgment for, and payment of said protested bills. Sult.

SEC. 11. *Be it further enacted*, That in case of a vacancy of the office of commissioner and trustee of the State bank and branches, or discontinuance of said office and officer, the duties required by this act of that officer, shall be discharged by the Governor of the State of Alabama.

SEC. 12. *Be it further enacted*, That from and after the aforesaid banks respectively shall give the bond required by a previous section of this act, the bills or notes of each of said banks shall be receivable for all taxes and other public dues during their suspension, until proceedings shall be instituted against them for some failure to comply with the provisions of this act, or for some violation of this act, or of their charters, and the Governor shall give public notice in some newspaper in Montgomery, as soon as the aforesaid bonds may be given, of the fact that they have been given; and the said banks be required on the first day of June, 1858, to give bond and security in such amount as the Governor may require, conditioned, for the redemption of their respective bills then in the treasury on the first day of November, 1858, or as soon thereafter as the Governor of the State may demand; *Provided*, That every tax collector paying into the treasury any bills of either of said banks, shall make affidavit in writing, sworn to before some officer authorized to administer oaths, stating the total amount of said bills proposed to be paid into the treasury by him, and stating that he collected the same at par from tax payers, and did not receive or buy the same at a discount, and shall file such affidavit in the treasurer's office, and if any tax collector shall swear falsely in making such affidavit, he shall be deemed guilty of perjury. Bills receivable for taxes.

SEC. 13. *Be it further enacted*, That said banks be required to give bond and security to the State, to be approved by the Governor, to the amount of their bills in the possession of this State, conditioned, that they will meet and discharge in good faith, the provisions of this act, and failing to do so, be charged and required to pay on the said bills in the said possession twelve per cent. interest instead of eight per cent. Proviso.

Banks to give bond.

SEC. 14. *Be it further enacted*, That should said banks fail within thirty days after the passage of this bill, to give the bond and security above provided, the solicitors of the circuits in which said banks so defaulting are located, be instructed by the Governor to proceed as soon as possible against the said bank or banks so defaulting, before the courts of this State, to obtain a judgment of forfeiture of charter against said bank.

SEC. 15. *Be it further enacted*, That the Central Bank of Alabama, and the Commercial Bank of Alabama, nor either of them, shall at any time hereafter until they resume specie payments, charge or receive more than one-half of one per cent. for exchange on Mobile, nor more than three quarters of one per cent. for exchange on New Orleans, nor more than one-half of one per cent. for exchange on Charleston, South Carolina, or Savannah, Georgia, nor more than one per cent. for exchange on New York, Philadelphia, or Boston, nor beyond the relative rates above specified for exchange upon other points within the United States.

Rates of Ex-
change.

APPROVED, December 19, 1857.

[No. 22.]

AN ACT

To repeal an act therein named, relating to the deposit of moneys in the Savings Bank of Mobile.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an act entitled an act to provide for the investment and safe keeping of estates and money in certain cases therein named, approved 17th February, 1854, be, and the same is hereby repealed.

APPROVED, January 20, 1858.

[No. 23.]

AN ACT

In regard to the Mobile Savings Bank.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That notes, drafts, and all other instruments in writing, made payable at bank or banking house of the Mobile Savings Company, shall be entitled to days of grace, and shall be in all things governed by the law of merchants, except so far as the same is changed by the Code of Alabama. Days of grace.

APPROVED, 5th February, 1858.

[No. 24.]

AN ACT

To provide for burning the mutilated bills of the Bank of Montgomery in the comptroller's office.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts, with the president or cashier of the Bank of Montgomery, and the Governor, or secretary of state, and the state treasurer, shall at some convenient time as early as practicable, after having the same property registered by denomination, in suitable books, in duplicate, one of which, to be retained in the comptroller's office, and the other delivered to said bank for safe keeping, burn the notes of the said bank which have heretofore been cancelled and returned to the comptroller's office as unfit for circulation; and the said officers hereinbefore mentioned, or a majority of them, including the comptroller and president or cashier of said bank, shall be present at said burning, and those present shall certify the register of notes burned. Notes to be burned.

SEC. 2. *And be it further enacted,* That said officers shall, in like manner, at such time as the comptroller and president of said bank may think proper, burn such notes of said bank as may hereafter be properly cancelled, and deposited in said comptroller's office.

APPROVED, February 8, 1858.

[No. 25.]

AN ACT

To vest in the Tennessee and Alabama Central Rail Road Company certain lands granted by Congress in trust to the State of Alabama, to aid in the construction of the Tennessee and Alabama Central Rail Road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the lands, rights, powers, and privileges granted to, and conferred on the State of Alabama by the above mentioned acts of Congress be, and the same are hereby accepted upon the terms, conditions, and restrictions in the said act of Congress contained.

Bond and security.

SEC. 2. *Be it further enacted,* That so much of the lands, interests, rights, powers, and privileges as are or may be granted and conferred in pursuance of the acts of Congress aforesaid, to aid in the construction of the "Tennessee and Alabama Central Rail Road are hereby disposed of, granted to, vested in and conferred upon the Tennessee and Alabama Central Rail Road Company," a corporation created and existing under the laws of this State, for the purposes and under the restrictions specified in said act of Congress, and as soon as said company shall execute and deliver to the Governor of the State a bond, with good and sufficient security faithfully to use the said lands for the purposes of its donation, and to abide by and perform the provisions and conditions in the said act of Congress contained, said rail road company shall be and are hereby authorized to take possession and dispose of said lands pursuant to and under the provisions and restrictions of the said act of Congress.

Intent and meaning.

SEC. 3. *And be it further enacted,* That the priority of the passage and approval of this act shall not be so construed as to prejudice the rights which any other rail road company may have under any act of Congress to any part of said lands, it being the true intent and meaning of this act that the rights of the different rail roads shall be left where they stand under the acts of Congress making donations for their respective benefit.

APPROVED, February 8, 1858.

[No. 26.]

AN ACT

To repeal "an act" entitled an act to make a loan to the Alabama and Tennessee Rivers Railroad, and Charleston and Memphis Railroad Companies, passed January 21st, 1856.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act "to make a loan to the Alabama and Tennessee Rivers Railroad Company," passed January 21st, 1856, b.: and the same is hereby repealed. Repeal.

SEC. 2. *Be it further enacted,* That the act to make a loan to the Memphis and Charleston Railroad Company, approved January 21st, 1856, is also hereby repealed.

APPROVED, February 6, 1858.

[No. 27.]

AN ACT

In regard to the administration of oaths.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That any oath required by law to be taken, or any affidavit required to be made, can be taken or made before any judge, chancellor, or justice of the peace, who is hereby empowered by law to administer and certify the same. Oaths.

APPROVED, December 5, 1847.

[No. 28.]

AN ACT

Requiring the Governor to reside at the capitol and fixing his salary.

Salary.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Governor of the State of Alabama, be and he is hereby, required to reside at the capitol of said State, and his salary is fixed at the sum of four thousand dollars per annum, payable quarterly : *Provided,* He shall not be permitted to employ a private secretary, at the expense of the State.

SEC. 2. *Be it further enacted,* That all laws and parts of laws, in conflict with the provision of this act be and the same are hereby repealed.

APPROVED, November 30, 1857.

[No. 29.]

AN ACT

To increase the pay of Sheriffs in this State.

Jail fees.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act sheriffs in this State shall receive compensation as follows, *to wit:* for keeping in jail white prisoners, forty cents each day while in prison, and for negroes thirty-five cents per day.

SEC. 2. *Be it further enacted,* That all laws and parts of laws contravening the provisions of this act be, and the same are hereby repealed.

APPROVED, January 22, 1858.

[No. 30.]

AN ACT

Authorizing the Governor to appoint an agent to settle with Jordan & Moore, lessees of the Penitentiary, and to define the laws relative to that institution.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Governor be, and he is hereby authorized to appoint some suitable agent, or agents, not exceeding three, to settle with Jordan & Moore, lessees of the Penitentiary, to receive from said lessees all the property belonging to the State of Alabama, and execute proper receipts for the same; that the property so received shall be held by said agent, or agents, subject to the order of the Governor; that said agent, or agents, be authorized to receive from said lessees any necessary and permanent improvements made by them within the walls of the Penitentiary and for the use of the same, and to allow therefor a just and reasonable compensation, which improvement, when so received and accounted for, vest in and become the *bona fide* property of the State of Alabama, and shall be deemed and held as part of the Penitentiary premises: *Provided, however,* That no settlement shall be final until approved and ratified by the Governor, for which purpose the agent, or agents, shall make an immediate report to the Governor of their acts, under and by virtue of his or their said appointment; that in the approval and ratification of the terms of settlement, the Governor shall liquidate the amount found due the said lessees, by the surrender of their bond executed to the State of Alabama for the lease of the Penitentiary, and by his order on the State treasurer for the balance, if any shall be found due; and if upon said settlement the said lessees are found to be in arrears with the State, the Governor is authorized to direct the most summary process to secure the same.

Governor to appoint agent.

Proviso.

SEC. 2. *Be it further enacted,* That the inspectors, with the advice and consent of the Governor, are authorized to make any and all needful improvements in and about the prison that they may deem proper: *Provided,* That no other funds shall be applied to making said improvements than such as may accrue to the State from the proceeds of the Penitentiary.

Inspectors to make needful improvements.

SEC. 3. *Be it further enacted,* That section 3868 of the Code be amended by adding—"or the General Government."

Condition of
buildings.

SEC. 4. *Be it further enacted*, That the inspectors shall describe in the inventory to be made under section 3876 of the Code, the true condition of the buildings as nearly as may be, and in the receipt required to be taken under said section, the condition of said buildings shall be set out and the receipt filed in the comptroller's office.

SEC. 5. *Be it further enacted*, That section 3965 of the Code of Alabama be, and the same is hereby altered and amended by striking out the word "advanced" where it occurs in said section, and inserting in lieu thereof the word "paid," and also by striking out the words "and repaid by the State."

Lessees to report
annually.

SEC. 6. *And be it further enacted*, That the lessees and inspectors be, and they are hereby required to report annually to the Governor the amount due from the Federal Government for the maintenance of convicts, and that any future lessee shall be required, before entering upon the discharge of his duties as such lessee, to release to the State all his right, title and interest in and to any and all claims that may accrue against the Federal Government, during the term for which he may be such lessee, for the maintenance of convicts.

APPROVED, February 8, 1858.

[No. 31.]

AN ACT

To regulate the mode of proceeding in cases for rehearing, as provided in part 3, title 1, chapter 17, of the Code of Alabama.

Ten days notice.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, the party applying for a re-hearing, under the provisions of section 2408 of the Code of Alabama, must give to the opposing party, or his attorney, ten days' notice of the judge before whom, and the place where, such application will be made.

APPROVED, February 8, 1858.

[No. 29.]

AN ACT

In relation to Public Printing.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the public printers shall be entitled to receive pay for press work on bills ordered by either branch of the General Assembly, including paper, folding and stitching, at the following rates and no more, namely: Pay for Press-work. for thirty-five copies or less, one dollar and fifty cents per page; for one hundred copies, two dollars and twenty-five cents per page; for one hundred and fifty copies, two dollars and seventy-five cents per page; and that the present public printers shall be entitled to the benefits of the provisions of this act.

SEC. 2. *And be it further enacted,* That hereafter when any matter shall be ordered to be printed by both Houses, the same shall in all respects be charged for as though ordered by one House only, except in cases where ten days Ten days intervene. intervene between the time of the respective orders, any law, usage or custom, to the contrary notwithstanding.

APPROVED, February 8, 1858.

[No. 30.]

AN ACT

To provide for the election of State Printer.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act there shall be a State printer elected every two years, by a joint vote Two years. of the two Houses of the General Assembly, whose term of service shall commence on the third day of December, 1859, and every two years thereafter, and continue for two years.

SEC. 2. *Be it further enacted,* That the General Assembly shall, at the commencement of each biennial session and within three days after its organization, elect a printer to serve for the term of two years.

SEC. 3. *Be it further enacted,* That before entering on the duties of his or their station, he or they shall enter into

Bond.

bond and security, as now required by law, for the faithful performance of his or their duties.

SEC. 4. *Be it further enacted*, That such printer elected as aforesaid, shall be required and entitled to do all the State printing, both such as is, or may hereafter be required by law, at such prices, and upon such terms and conditions as may from time to time be established by law.

Removal from office.

SEC. 5. *Be it further enacted*, That the legislature when in session, or the Governor, when the legislature is not in session, shall have power to remove from office the State printer for incompetency, or gross and willful neglect of duty, and appoint some one else in his place, who shall enter upon the duties of the station, upon the same terms and conditions as required of his predecessor, and shall continue in office until the end of the succeeding legislature, or until the expiration of the term for which the person so removed was elected.

SEC. 6. *Be it further enacted*, That all laws and parts of laws conflicting with the provisions of this act be, and they are hereby repealed.

APPROVED, February 8, 1858.

[No. 31.]

AN ACT

To compel the personal attendance of witnesses in civil cases.

May require the attendance.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That when the deposition of any witness residing in the county in which any civil cause may be pending, shall have been taken, it shall and may be lawful for the court in which such cause may be pending, on the application of either party to said cause, supported by the affidavit of such party, his agent or attorney, that he believes the personal attendance of the witness, on the trial of such cause, is material and practicable, to make an order requiring such witness to attend said court in person, on the trial of said cause, and a copy of such order and a subpoena shall be served on said witness, and if it shall appear, when said cause is called for trial, that the attendance of such witness is practicable, and a copy of such order and a subpoena have been served on said witness, the deposition of said

witness shall be suppressed. The affidavit of the party making such application, his agent or attorney, made as aforesaid, shall be deemed and held presumptive evidence, that the attendance of such witness is practicable.

SEC. 2. *Be it further enacted*, That when the application aforesaid is made in any cause pending in any of the circuit courts of this State, such order if applied for in vacation, may be made by the clerk of such circuit court.

Order by Clerk.

APPROVED, February 8, 1858.

[No. 32.]

AN ACT

To prevent gaming among slaves.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter it shall not be lawful for any slaves or free persons of color, to play at any game with cards or dice, or with any device or substitute for the same, and any slave or free persons of color, so offending, may be arrested with or without a warrant and taken before a justice of the peace.

Warrant before
J. P.

SEC. 2. *Be it further enacted*, That if said justice believes from the evidence that the party is guilty, he shall sentence him or them to receive not less than ten nor more than thirty-nine stripes, to be inflicted by a constable, unless the master or owner if he be a slave, shall voluntarily inflict the punishment, for which services the justice and constable shall each receive the sum of one dollar, to be paid by said free person of color or owner of such slave, as the case may be.

Punishment.

APPROVED, February 2, 1858.

[No. 33.]

AN ACT

To fix the mode of conveying the estates of husband and wife and for other purposes.

Deed of convey-
ance.

SECTION 1 *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That no deed of conveyance of any land heretofore *bona fide* made, and executed by husband and wife, acknowledged by them before any judge, justice of the peace, notary public, or other officer authorized by law, within this State to take such acknowledgments, and certified by him, shall be deemed or held invalid or defective or insufficient in law by reason of any informality or omission in setting forth the particulars of the acknowledgment made before such officer as aforesaid in the certificate thereof, but every such conveyance and assurance so made, certified and acknowledged as aforesaid, shall be as good and effectual for conveying the estate and interest of said husband and wife or either of them to the lands mentioned in the same, as if all the requisits and particulars of such acknowledgment as heretofore required by law, were fully set forth in the certificate thereof.

Before J. P.

SEC. 2. *Be it further enacted,* That in all conveyances of the wife's property, or any part thereof, heretofore *bona fide* made since the adoption of the Code, or that may hereafter be made by husband and wife jointly, by instrument in writing, and acknowledged before any justice of the peace, notary public, or other officer of the State, authorized to take acknowledgments of conveyances, shall be held and deemed valid in law, and sufficient to pass the estate of the wife as fully as if the same were attested by two witnesses.

APPROVED, February 8, 1858.

[No. 34.]

AN ACT

To amend section 2471 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 2471 of the Code be so amended as to allow creditors, their agents, or attorneys, to obtain garnish-

ment against any person supposed to be indebted to the defendant, in any cause when a summon or summons and complaint have issued by making affidavit before the justice of the peace, or clerk of the court to which the summons is returnable, that such persons is supposed to be indebted to, or have effects of the defendant in his possession, or under his control, and that he believes process of garnishment against such persons is necessary to obtain satisfaction of such claims, and also making affidavit to the amounts due from the defendant to said creditor, and giving bond as in attachment cases, and thereupon the justice of the peace, or clerk of the court, must issue the process of garnishment, returnable at the same time the summon or summons and complaint is returnable, and that the provisions of articles five and six, chapter one, title two, part three of the Code, are applicable to this act.

Affidavit.

APPROVED, February 5, 1858.

[No. 35.]

AN ACT

To amend section 2318 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all ministers of the gospel who are or hereafter may be in charge of any diocese, parish church, district or circuit, shall be included in the list of persons, the taking of whose depositions is now provided for in said section.

APPROVED, February 5, 1858.

[No. 36.]

AN ACT

To amend section 1847 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 1847 of the Code of Alabama be, and is hereby amended, by adding thereto the following words:

Affidavit of executor.

When a claim shall be filed by an executor, administrator, guardian, or other trustee, it may be verified by the affidavit of such executor, administrator, guardian, or trustee, that he believes the claim to be just, due and unpaid, and in all cases where a claim is verified under this section, within the time prescribed, if the verification shall be defective or insufficient, the defect or insufficiency may be supplied by amendment or by proof at any time before a final decree.

APPROVED, February 6, 1858.

[No. 37.]

AN ACT

To amend section 2424 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section twenty-four hundred and twenty-four of the Code of Alabama be so amended as to allow the clerks of the circuit courts for the several counties of this State, when the court continues in session but one week, ten days; when it continues two weeks, fifteen days, and when it continues three or more weeks, twenty days after, the adjournment of said court, to issue executions therefrom.

APPROVED, February 8, 1858.

[No. 38.]

AN ACT

To amend section 3047 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 3047 of the Code be so amended that sheriffs and jailors be allowed thirty-five cents for victualing a runaway slave per day, instead of twenty-five cents.

APPROVED, February 8, 1858.

[No. 39.]

AN ACT

To amend sections 2409 and 2410 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 2409 of the Code of Alabama be amended by adding, "And the petitioner shall give the adverse party ten days notice of the time and place where the application will be made, and also cause a copy of the petition to be served on the adverse party for ten days before the application is made; and it shall be lawful for the adverse party to controvert the petition by affidavit in writing."

SEC. 2. *And be it further enacted,* That section 2410 be amended by adding thereto, "And the judge shall have power to impose such terms as he may think proper for granting an order for said supercedeas."

APPROVED, February 8, 1858.

[No. 40.]

AN ACT

To amend section 2182 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the first clause of section 2182 of the Code be amended by inserting after the words, "or any part thereof," the following: And that he has not, since the time of his arrest, conveyed, concealed, or removed, or cause to be removed from the limits of this State any property or effects, with the intention of defrauding his creditors.

SEC. 2. *Be it further enacted,* That the second clause of section 2182 of the Code be amended by inserting after the words, "conveyed, or concealed," where they occur in the eighth line, the following: Or since the time of his arrest removed, or caused to be removed from the limits of this State.

APPROVED, February 6, 1858.

[No. 41.]

AN ACT

To amend section 2175 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the words "or effects" be inserted after the word money, in the 4th paragraph of section 2175 of the Code.

APPROVED, January 20, 1858.

[No. 42.]

AN ACT

To amend section 1065 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 1065 of the Code of Alabama be so amended that it shall read, within ten, instead of within three days.

APPROVED, January 20, 1858.

[No. 43.]

AN ACT

To amend section 1136 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 1136 of the Code be amended by inserting between the words "after" and "the," in the third line of said section the words, "the making of an order for."

APPROVED, January 20, 1858.

[No. 44.]

AN ACT

To amend section 1676 of the Code as to the county of Madison.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter it shall be lawful for special administrators to loan out the money of their decedents, under the direction of the courts of probate, and to pay claims against the estates they represent. *Provided,* That if said estates prove insolvent, the said special administrators are chargeable with the excess over the proper pro rata shares paid by them to creditors. *And provided,* That the provisions of this act shall apply only to the county of Madison.

APPROVED, January 28, 1858.

[No. 45.]

AN ACT

To amend section 3500 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 3500 be so amended as to read, If a prosecutor appears, the foreman must endorse his name on the indictment, who shall be liable for the costs. If the indictment is for a misdemeanor, and the court is of the opinion that the prosecution is frivolous, or malicious. If no prosecutor appears, the foreman must endorse "no prosecutor" thereon, and failing to do so he shall be liable for the costs in all cases where the prosecutor would be liable for the same.

APPROVED, January 27, 1858.

o. 46.]

AN ACT

To amend section 1860 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That when any judgment is certified to the probate court under section 1860 of the Code of Alabama, the clerk so certifying the same shall be authorized to demand of the plaintiff in said judgment payment of his costs incurred in obtaining the same; and if the said plaintiff shall fail or refuse for twenty days after the judgment is so certified, execution may issue against him for the same as in other cases.

APPROVED, January 27, 1858.

[No. 47.]

AN ACT

To amend section 1537 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, section 1537 of the Code of Alabama, be so amended, that the damages on inland bills of exchange protested for non acceptance or non payment, shall be five per cent., and on foreign bills of exchange protested for non payment or non acceptance, the damages shall be five per cent. on the sum drawn for. *Provided,* That the provisions of this act shall not apply to bills of exchange drawn, dated and negotiated before the passage of this act, but such bills shall be negotiated in all respects by statutes now in force in the State of Alabama.

APPROVED, January 26, 1858.

[No. 48.]

AN ACT

To extend the provisions of sections 2451, and 2605, of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the provisions of sections 2451 and 2605 of the Code of Alabama, be, and the same are, hereby made applicable in all respects to clerks of the circuit courts and registers in chancery, any law to the contrary notwithstanding.

APPROVED, January 26, 1858.

[No. 49.]

AN ACT

To extend the operation of section 2768 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, section 2768 of the Code of Alabama, be and the same is made applicable to the county of Lawrence.

SEC. 2. *Be it further enacted,* All laws and parts of laws contravening the provisions of this act be and the same are hereby repealed.

APPROVED, January 20, 1858.

[No. 50.]

AN ACT

To amend section 733 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 733 of the Code of Alabama be, and is hereby amended to this effect: That the supreme court of said State may, in its discretion, whenever an application will be made to said court for license to practice as an

attorney at law, appoint a committee of three members of the bar of said court to examine such applicant, either in open court, or out of court; and shall grant license to such applicant, if such committee report to the court that upon their examination they found him duly qualified to practice; and if such committee report to the court that the examination is not satisfactory, license shall be refused.

APPROVED, February 6, 1858.

[No. 51.]

AN ACT

To amend section 1721 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 1721 of the Code of Alabama, be and the same is hereby amended by adding thereto the following qualification, *to wit:* Except when the testator shall have provided by his will for the nomination or appointment of a substitute or successor, in which event, the person nominated in accordance with the provisions of this will, shall be permitted to qualify as executor.

APPROVED, February 8, 1858.

[No. 52.]

AN ACT

To amend section 3568 of the Code in relation to witnesses before grand jurors.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the grand juries in this State, shall keep a list of all the cases upon which they take action, regularly numbering each case, but without naming the parties defendant, which list shall be returned to the clerk of the circuit court. Said list shall distinctly set out the names of all the witnesses appearing be-

fore the grand juries by subpoena, whether a true bill be found in each case or not.

SEC. 2. *Be it further enacted*, That it shall be the duty of the foreman of the grand jury, to mark upon each bill of indictment the number corresponding with the number on the list heretofore provided for.

SEC. 3. *Be it further enacted*, That it shall be the duty of the foreman of the grand jury, to give to each witness who shall demand the same, a certificate of his attendance before the grand jury, numbered correspondingly with the case, with the amount of his per diem and mileage, and enter the amount of the fee of said witness upon the list to be returned to the clerk, opposite the name of the witness proving the same, for which purpose blank certificates shall be furnished the grand jury by the circuit clerk, to be paid for by the county as other stationery.

SEC. 4. *Be it further enacted*, That the circuit judges be required to give this act specially in charge to the grand juries.

APPROVED, February 8, 1858.

[No. 53.]

AN ACT

To improve sections 2319 and 2320 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That whenever either party to a civil suit at law, shall be desirous of taking the deposition of a witness, or witnesses, under the provisions of the third article of section 2318 of said code, the same shall be taken by interrogatories in conformity with section 2320 of the same.

APPROVED, February 8, 1858.

[No. 54.]

AN ACT

To amend section 1910 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 1910 of the Code be amended by inserting after the words "this title," the words "or in chapter 3, of title 5, in part 2."

APPROVED, February 8, 1858.

[No. 55.]

AN ACT

To amend 1005 of the Code in relation to slaves.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall not be lawful for any slave who may have been heretofore, or may be hereafter, permitted to hire his own time, or to go at large under the provisions of section 1005 of the Code, to traffic or trade with any other slave without the written consent of the owner of such other slave, or of the agent or overseer of such owner, and for any violation of the provisions of this act, the slave so offending shall be punished on conviction before any justice of the peace, or the mayor, or intendent, or other chief officer of the city or town where the offence may be committed, by whipping not exceeding thirty-nine lashes, and by such conviction, the permit granted to such slave shall be forfeited, and no similar permit shall ever afterwards be granted to him.

APPROVED, February 8, 1858.

[No. 56.]

AN ACT

To amend section 1372 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 1372 of the Code be amended as follows, add after the word "dower," where it occurs in the first line of said section, the following: "When the claim or rights of an alienee of the husband, or any one claiming under such alienee, are involved in such suit or proceedings.

APPROVED, February 8, 1858.

[No. 57.]

AN ACT

To amend section 2419 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That no execution shall issue on a judgment or decree of the circuit, chancery, or probate court, on which an execution has not been sued out within one year after its rendition, until the same shall have been served by *scire facias*, if the defendant therein is a resident of this State, calling on him to show cause why the plaintiff should not have execution on such judgment or decree, and in case the defendant is a non-resident, the plaintiff shall be required to make affidavit of the fact of such non-residence, and that such judgment or decree is unsatisfied, and cause publication to be made, for thirty days, in some newspaper published in the county, calling on such defendant to show cause why plaintiff should not have execution on his judgment or decree, a copy of which newspaper containing such publication must be forwarded by mail to such defendant if his post office be known.

APPROVED, February 8, 1858.

[No. 58.]

AN ACT

To amend section 3568 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 3568 of the Code be so amended as not to apply to witnesses appearing before the grand jury, whether by subpoena or otherwise, who are on the ground when the subpoena is served on them; *Provided,* They are not detained by said subpoena longer than the day on which they were summoned.

APPROVED, February 6, 1858.

[No. 59.]

AN ACT

To amend section 1132 of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 1132 of the Code be amended by adding to the same the following words, viz: "Two of which shall be in the immediate neighborhood of the road to be established, changed or discontinued."

APPROVED, January 25, 1858.

[No. 60.]

AN ACT

To amend section 2462 of the Code of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the fourth clause of section 2462 of the Code be amended by striking out the word "forty," and inserting the word "eighty."

APPROVED, February 12, 1858.

[No. 61.]

AN ACT

To amend section 3992 of the Code, in relation to the fees of sheriffs in criminal cases.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section 3992 of the Code be, and the same is hereby so amended as to allow the following fees to sheriffs in criminal cases: For serving a warrant, or writ of arrest, \$2 00; for each bond, or undertaking returned to court, \$1 00; committing prisoner to jail, \$1 00; releasing prisoner from jail, \$1 00.

APPROVED, January 20, 1858.

[No. 62.]

AN ACT

To amend sections 2471, and 2472, of the Code.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, sections 2471 and 2472, of the Code be, and the same are hereby so altered and amended that the affidavits required therein may be made before any officer in the State authorized to administer an oath.

APPROVED, February 1, 1858.

[No. 63.]

AN ACT

To amend the corporation of Livingston.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act the intendant and council of the town of Livingston be, and they are hereby authorized to assess and collect such taxes as they may deem fit and proper on any property within

the limits of said corporation, subject to State taxation, not to exceed at any time three times the amount of the State tax that may be assessed; except the tax on male slaves and poll tax, which said intendant and council in said town may assess, as high as three dollars on each over eighteen years of age and not exceeding sixty, and not to exceed ten dollars on each white male over twenty-one and not exceeding forty-five years old.

APPROVED, February 6, 1858.

[No. 64.]

AN ACT

To amend and repeal in part an act therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the word "fourteen," where it occurs in section 1, of an act approved the 2d day of February, 1856, entitled "An act to regulate the number of grand jurors in the county of Marion" be stricken out, and the word "sixteen" be inserted in lieu thereof.

SEC. 2. *Be it further enacted,* That the second section of said act be, and the same is hereby repealed, and the following adopted in lieu thereof: "That if sixteen persons duly qualified to serve as grand jurors do not appear, or if such number is reduced below that number, by any one who is summoned being discharged, excused, or by any other cause, the court must complete the grand jury as provided by section 3464, and 3465, of the Code, but said grand jury shall not exceed the number of sixteen."

APPROVED, January 20, 1858.

[No. 65.]

AN ACT

To amend the laws as to Pilotage.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the fee for piloting a ship or vessel, drawing fourteen feet or more of water, into or out of the bay, or harbor, of Mobile, shall be four dollars and fifty cents for each foot of the actual draught of water of such ship or vessel.

APPROVED, February 6, 1858.

[No. 66.]

AN ACT

To repeal an act therein named, approved February 17, 1854.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act to repeal certain laws which conflict as to the duties of the quarter master general, approved February 17, 1854, be and the same is hereby repealed.

APPROVED, February 4, 1858.

[No. 67.]

AN ACT

To amend an act approved January 15, 1844, to consolidate the several acts of incorporation of the city of Mobile, and to alter and amend the same.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened.* That section twenty-four of said act be amended by changing the word three, where it occurs in said section, to the word twelve, so that land sold for taxes may be redeemed at any time within twelve months from the time of sale, by

the payment of the amount bid for the same, and twenty-five per cent. thereon, and at any time after the expiration of one year, and before the expiration of five years from the time of sale, by the payment of the amount bid, with interest thereon at the rate of twenty-five per centum per annum.

Mayor, aldermen
and council
granted powers.

SEC. 2. *Be it further enacted,* That the mayor, aldermen and common council of the city of Mobile be, and they are hereby authorized and empowered, by a resolution of each board approved by the mayor, to levy and collect a tax of ten cents on each one hundred dollars' worth of taxable property in the city of Mobile, in addition to the forty cents now authorized to be collected by law, which tax of ten cents aforesaid shall be applied to the liquidation and payment of the debts other than bond debts and coupons that may be due by the city of Mobile at the time of the passage of this act, until the same are paid; and the said tax of ten cents shall be levied and collected for four years only, including the present year. A separate account of said tax of ten cents shall be kept, and there shall be published each year, a statement of the fund arising therefrom, together with debts to which the same has been applied; and if in any one year, the money arising from said extra tax shall be in any manner or degree applied to any other purpose than as herein provided, the said mayor, aldermen, and common council shall not thereafter have the power, any longer to levy or collect said tax.

Watchmen.

SEC. 3. *Be it further enacted,* That the word watchman, as used in section thirty-seven of said act, shall be deemed and taken to mean and include all policemen, and officers connected with the police force of said city, and they shall be appointed by the mayor, but may at any time be removed from office by a joint vote of two-thirds of the two boards of aldermen and common council, assembled in joint convention.

Establish ferries
across river of
Mobile.

SEC. 4. *Be it further enacted,* That the said mayor, aldermen, and common council shall have full power and authority to establish ferries across the river Mobile, within the limits of said city, and regulate the rates of ferriage; to establish and keep open all sidewalks, drains and sewers, which they may deem necessary for the convenience or health of the citizens, paying the owners of lands injured thereby such damages as they may sustain thereby, to be assessed and ascertained in the manner provided by law in case of streets being opened over private property.

SEC. 5. *Be it further enacted,* That no person residing out

of the corporate limits of said city shall be eligible to the office of mayor of said city; and if the mayor shall, after his election, remove his domicile out of the limits, he shall thereby forfeit and vacate his office.

SEC. 6. *Be it further enacted*, That the terms of office of all officers of said city annually elected shall commence on the first day of January of each year, and continue one year, and until their successors shall be duly elected and qualified.

SEC. 7. *Be it further enacted*, That all laws and parts of laws contrary to the provisions of this act be and the same are hereby repealed.

APPROVED, February 6, 1858.

[No. 68.]

AN ACT

To repeal in part an act therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That so much of an act entitled "an act to alter the mode of selecting grand jurors for the counties of Dallas, Tallapoosa, Tuscaloosa and Barbour," as relates to the county of Tallapoosa, be and the same is hereby repealed.

SEC. 2. *Be it further enacted*, That from and after the passage of this act, that grand jurors for Tallapoosa county shall be selected according to the general law of the State.

APPROVED, December 2, 1857.

[No. 69.]

AN ACT

To amend the laws regulating the settlement of estates of deceased persons.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That wherever any executor or administrator has died, resigned, or been removed, or shall hereafter die, resign, or be removed from his said administration without having made

Executors file accounts and vouchers.

a final settlement of the same, it shall be lawful for the personal representative of said deceased executor or administrator, or for said resigned or removed executor or administrator, to file his accounts and vouchers and make final settlement of his said administration; the said settlement to be governed by the laws now in force in this State, regulating the settlement of the estates of deceased persons.

SEC. 2. *Be it further enacted*, That the executor or administrator *de bonis non* of said original testator or intestate, shall be made a party to said settlement, and shall leave personal notice of the time of said settlement served upon him at least twenty days before the day appointed for said settlement.

Probate court render decree in favor of known representatives.

SEC. 3. *Be it further enacted*, That if on said settlement a balance shall be ascertained to be due from the estate of said testator or intestate, to said deceased, resigned, or removed executor or administrator, the probate court may render a decree in favor of the personal representative of such deceased executor or administrator, or in favor of such resigned or removed executor or administrator, against the said administrator *de bonis non*, for the balance so ascertained to be due from the estate of said testator or intestate; and payment thereof may be enforced by execution against such administrator *de bonis non*, to be levied of any effects of said estate in his hands unadministered, if said estate is solvent, but if insolvent, then said decree to be paid as other claims against insolvent estates. *Provided*, that no decree shall be rendered against the administrator *de bonis non* until the lapse of eighteen months from the time of the grant of the original letters of administration, or letters testamentary.

SEC. 4. *And be it further enacted*, That the probate court may stay execution on any decree rendered under the provisions of this act for any time not exceeding six months, if in the judgement of said probate court the interest of said estate shall require such extension.

APPROVED, February 5, 1858.

[No. 70.]

AN ACT

To repeal an act therein named, approved February 18, 1854, so far as the county of Lawrence is concerned.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act to amend section 397 of the Code, approved February 18, 1854, be and the same is hereby repealed, so far as the county of Lawrence is concerned, any law to the contrary notwithstanding.

APPROVED, February 2, 1858.

[No. 71.]

AN ACT

To repeal an act so far as the same relates to Butler county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act to alter and amend the patrol laws now in force, in certain counties therein named, approved, January 15, 1843, be, and the same is hereby repealed so far as the same relates to Butler county.

APPROVED, February 2, 1858.

[No. 72.]

AN ACT

To repeal an act therein named so far as Walker county is concerned.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act "to change the manner of appointing overseers of roads in Marion and Walker counties, be, and the same are hereby repealed, so far as relates to Walker county, any law to the contrary notwithstanding.

APPROVED, February 2, 1858.

[No. 73.]

AN ACT

For the repeal of an act therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That such part of the act for the relief of John C. Hawkins, the heirs of Allen K. Curry, A. Downing, W. J. Ingram, and Aaron Greene, approved, February 13, 1856, as relates to the rescision of the contract between the trustees of township 15, range 6, in Benton county, and A. Downing and W. J. Ingram, be, and the same is hereby repealed.

SEC. 2. *Be it further enacted,* That the said A. Downing and W. J. Ingram, be, and they are hereby required to execute and transmit to the office of the superintendent of education, new notes with such security as the trustees of said township shall approve; said notes to correspond in amounts, dates and times of maturity with those cancelled by the superintendent of education in conformity to the provisions of said act.

APPROVED, February 2, 1858.

[No. 74.]

AN ACT

To repeal an act therein named, regulating the sessions of the circuit and city courts of Mobile county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the act to regulate the sessions of the circuit and city courts of Mobile county, approved January 17, 1854, be, and the same is hereby repealed on and after the first day of May, 1858.

SEC. 2. *Be it further enacted,* That on and after the first day of May, 1858, the terms of the circuit court of Mobile county shall commence on the third Mondays after the fourth Mondays in March and October, and continue until the business is disposed of. And the terms of the city courts shall commence on the first Mondays in December, March and June, for civil business, and continue one month, but that no civil causes shall be tried in either of said courts between the

first day of July and the third Monday after the fourth Monday of October, except as provided in section four of this act; *Provided*, That the terms of the city court as to criminal business and in relation to the drawing and summoning of grand and petty jurors shall remain as now provided for.

SEC. 3. *Be it further enacted*, That special terms of the city court may be held by order of the judge, whenever it may be necessary for the trial of criminal causes, and to deliver the jail of all persons charged with crimes and offences. City court.

SEC. 4. *Be it further enacted*, That the first and third Mondays in each month shall be return days for complaints filed in the city court under section 2693 of the Code, in cases of admiralty, and the judge shall hold court on such days for the hearing and adjudication thereof, and may adjourn from day to day if necessary.

SEC. 5. *Be it further enacted*, That in all cases pending in either the circuit or city courts of Mobile, as well in actions to try titles to land, as in all other cases where the judge is within the operation or effect of section 560 of the Code, such cause or proceeding shall be transferred to the other court, city or circuit court of Mobile, with the consent of the counsel engaged therein, and the court to which the transfer is made, shall have full power, authority and jurisdiction to hear and determine the same as fully in every particular, as the court in which the cause originated, had, or could have had or possessed. Circuit court try titles lands, &c.

SEC. 6. *Be it further enacted*, That in civil causes all process issued from the city court or judgment rendered at the December term, shall be returnable to the June term, and all such process issued on judgments rendered at the March and June terms shall be returnable to the December term.

SEC. 7. *Be it further enacted*, That if such process shall issue from either of said courts and be returned no property, or be not fully satisfied, it shall thereafter issue returnable to the first Monday of December, and not oftener; *Provided*, it shall be the duty of the sheriff, or any officer receiving any writ, to execute its mandate as soon after its receipt as it can be done, and on failing to do so shall be subject to the penalties and forfeitures as provided in chapter 3, title 2, part 3 of the Code.

SEC. 8. *Be it further enacted*, That hereafter each board of commissioners of revenue of Mobile county, for the time being, be authorized to give to the judge of the city court, in addition to his present salary, a compensation not to Commissioners revenue.

Compensation.

exceed the rate of five hundred dollars per annum, if said board shall consider his salary too small a compensation for his services, which additional compensation shall take effect only after the allowance is made by said board; *Provided*, said compensation be paid as heretofore.

Clerk tax cost.

SEC. 9. *Be it further enacted*, That in each case tried in the city court it shall be the duty of the clerk of said court to tax in the bill of costs the sum of one dollar to be collected as other costs against the unsuccessful party, and when collected to be paid by the clerk or sheriff collecting the same, into the county treasury as a fund to be applied towards the payment of the salary of the judge of said city court.

SEC. 10. *Be it further enacted*, That an act to compensate tales jurors in certain cases, approved December 21, 1855, be repealed so far as it applies to Mobile county.

APPROVED, February 5, 1858.

[No. 75.]

AN ACT

To amend the law in relation to sales of cotton by factors in the city of Mobile.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter the provisions of the fifth clause of section 1551 of the Code of Alabama, shall not apply to any contract made by any factor in the city of Mobile, for the sale of cotton, and as to any such contract, the said clause of said section of the Code is hereby repealed.

Planter to factor.

SEC. 2. *Be it further enacted*, That when cotton in bales is sent by a planter, or other owner, to a factor for sale, a warranty is thereby implied, on the part of such planter or other owner, to the factor, and the purchaser from such factor respectively, that such cotton is not fraudulently packed, and when cotton is sold by sample by the owner or his factor, a warranty is hereby implied to the purchaser that the sample has been fairly drawn, and that the cotton is not fraudulently packed, and no other warranty is thereby implied, and for any breach of such implied warranty, the purchaser may recover damages either from the owner or factor selling the same, but no action shall be brought for any breach of such last mentioned implied warranty, unless it be commenced within one year after the time of

such sale; *Provided*, That planters shall not be liable for damages in any way for losses sustained by the factors, or commission merchants, for having sold cotton by fraudulent or unfair samples, unless such loss was occasioned by platting or fraudulent packing of the cotton by said planters.

SEC. 3. *Be it further enacted*, That when a contract for the sale of cotton is made in the city of Mobile by a factor, the contract shall be considered as complete, and the legal title to the cotton shall vest in the purchaser, when the cotton itself, or an order for it on any warehouseman with whom it is stored, is delivered to the purchaser, his broker or agent, and not before, subject however, to the *lien* of the seller for the purchase money hereinafter mentioned and provided for, and the buyer or his agent shall be bound to accept the order for the delivery of the cotton by twelve o'clock M., on the day subsequent to the sale, and may at his option accept such order sooner.

Subject to the
lien of seller.

SEC. 4. *Be it further enacted*, That when a contract is made in the city of Mobile by a factor for the sale of cotton, and by the general usage of the trade in said city, it is considered a sale for cash, but by such usage the purchaser, his broker or agent, is allowed a reasonable time to examine, re-weigh and re-sample the cotton, before paying for it, the seller shall have a lien, and a lien is hereby given to him on said cotton for the purchase money, which lien shall be paramount to any sale or transfer of the cotton by such purchaser, and shall continue for fifteen days from the time when the cotton, or an order for its delivery on any warehouseman with whom it was stored, was delivered to the purchaser, his factor or agent, and no longer.

Examine. &c.

SEC. 5. *Be it further enacted*, That if the purchaser of cotton sold as aforesaid, after the lapse of a reasonable time for him to examine, re-weigh, and re-sample the same, shall fail or refuse to pay for the same, the seller, having such lien as aforesaid on the cotton, may take possession of the said cotton, and sell it at private sale, in the usual manner for a fair price, and apply the proceeds of such sale to the payment of the purchase money due him therefor.

Lapse of reason-
able time.

SEC. 6. *Be it further enacted*, That any and all persons who shall remove, or cause to be removed, or assist in removing from this State, any cotton subject to such lien with intent to prevent, hinder or delay the payment or collection of the purchase money therefor, shall be liable jointly and severally, to any person injured thereby, for all losses or damages occasioned to such person thereby, to be recovered by civil suit in any court having jurisdiction

Removing from
this State.

Imprisonment in
penitentiary.

thereof, and shall moreover be deemed guilty of a felony, and may be indicted therefor, and on conviction shall be punished by imprisonment in the penitentiary for a term of not less than one, nor more than five years, to be fixed by the jury trying the indictment.

SEC. 7. *Be it further enacted*, That whenever cotton bought from a factor is removed by the purchaser, his agent or broker, from the warehouse in which it was stored, to another warehouse, for the purpose of re-weighing, re-sampling, or examination, and the same or any part thereof, shall after such re-weighing, re-sampling, or examination, be rejected by the purchaser, his agent, or broker, such purchaser, his agent, or broker, shall be bound to replace the cotton so rejected in the warehouse from which it was removed, in as good order as when it was removed, and to pay all the costs and charges attending such removal and replacing.

Creoles and ne-
groes.

SEC. 8. *Be it further enacted*, That such free persons of color living in the county of Mobile, as are there commonly called and known as creoles, may lawfully be employed to sample cotton in the city of Mobile, and that slaves may also be employed to sample cotton in said city under the supervision and control of some suitable white person who shall be responsible therefor.

SEC. 9. *Be it further enacted*, That all laws and parts of laws contrary to the provision of this act be, and the same are hereby repealed.

APPROVED, February 6, 1858.

[No. 76.]

AN ACT

To amend the laws of attachments against steamboats.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the provisions of article ten, of chapter four, title two, part three of the Code of Alabama, are hereby extended to embrace the owners of any boat, vessel, barge, flat boat, or other water craft, in the remedy given by said chapter, to the owners of property lost, injured or destroyed on such crafts.

APPROVED, December 9, 1857.

[No. 77.]

AN ACT

In regard to the probate judgeship and circuit clerkship of Marion county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act to authorize one and the same person to hold the office of judge of the court of probate and clerk of the circuit court of the county of Marion, approved February 5, 1856, be and the same is hereby repealed.

SEC. 2. *Be it further enacted,* That from and after the passage of this act, it shall not be lawful for the same person at the same time to hold the office of clerk of the circuit court, and judge of the probate court in Marion county. *Provided,* That nothing in this act contained, shall prevent the present judge of probate of said county, from holding the office of circuit clerk for the time for which he has been elected.

APPROVED, January 13, 1858.

[No. 78.]

AN ACT

To repeal an act approved February 5, 1840, in relation to justices in Pike county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act, entitled "an act to regulate justices courts, and for other purposes, in certain counties therein named," approved February 5, 1840, be, and the same is hereby repealed, so far as the county of Pike is concerned.

APPROVED, January 13, 1858.

[No. 79.]

AN ACT

To repeal an act therein named, approved January 18, 1845.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of an act, entitled an act to provide for the payment of jurors in certain counties therein named, approved January 18, 1845, as applies to the county of Conecuh, be, and the same is hereby repealed.

APPROVED, January 12, 1858.

[No. 80.]

AN ACT

To repeal certain sections of an act therein named

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the fourth and fifth sections of an act entitled an act "to regulate sheriffs and coroners sales in the county of Shelby," approved January 17, 1856, be, and the same are hereby repealed.

SEC. 2. *Be it further enacted,* That from and after the first day of April, 1858, the sheriff of said county of Shelby shall give the same notice of all sales of property levied on by execution as now required by law, by advertisement at the court house door and two other public places in said county; also by advertisement in a newspaper published in said county, provided the cost of such advertisement shall not exceed for such square of 12 lines or less, for the first insertion 50 cents; for each additional insertion 25 cents, for the time now required for such advertisement to be made.

APPROVED, February 6, 1858.

[No. 81.]

AN ACT

To renew and extend the operation of an act therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled "An act to amend section 939 of the Code," passed February 14, 1856, be and the same is hereby extended for the term of two years from the passage of this act, unless a bank is sooner chartered by the General Assembly of this State, and located at some point in the county of Barbour, and shall have actually gone into operation under such charter.

SEC. 2. *And be it further enacted,* That the provisions of this act be, and they are hereby extended to the county of Henry, upon the same conditions and limitations.

APPROVED, February 8, 1858.

[No. 82.]

AN ACT

To amend a certain act therein named relative to the road laws in certain counties.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled "An act to amend the road laws in the counties of Pickens, Autauga, Dale, Henry and Dallas," approved February 15, 1854, be so amended as to authorize but not require the overseers of public roads in said counties, to assign to persons liable to work on said roads who may desire it, sections of roads to which they may be apportioned: *Provided,* That this amendment to the act shall not apply to the county of Autauga, and that the provisions of this act, and the act to which this is supplemental, be extended to the counties of Bibb and Butler.

APPROVED, February 8, 1858.

[No. 83.]

AN ACT

To repeal an act entitled "An act to define the limits of the town of Somerville, in the county of Morgan, and to incorporate the same," approved January 19, 1839.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled "An act to define the limits of the town of Somerville, in the county of Morgan, and to incorporate the same," approved January 19, 1839, and all acts amendatory thereof, be and the same are hereby repealed.

SEC. 2. *Be it further enacted,* That all acts of the General Assembly of the State, passed prior to the 19th day of January, 1839, having for their object the incorporation of the said town of Somerville, be and the same are hereby repealed; it being the intention of this act to repeal all laws or parts of laws conferring corporate powers on said town of Somerville, so as to restore said town to the precise condition, respecting its corporation, that it occupied before any act was passed for the incorporation thereof.

APPROVED, February 8, 1858.

[No. 84.]

AN ACT

To repeal an act therein named, approved the 2d February, 1856.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act approved the 2d of February, 1856, authorizing Susan Lee to erect two gates across the Pepkins ferry and Livingston road be, and the same is hereby repealed.

APPROVED, February 8, 1858.

[No. 85.]

AN ACT .

To repeal section 2 of an act approved February 1st, 1854, in reference to the pay of tales jurors in Macon county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section two of an act, approved 1st February, 1854, entitled "An act to increase the compensation of grand, petit, and tales jurors of the county of Macon," be and the same is hereby repealed.

SEC. 2. *Be it further enacted,* That no tales juror shall receive any compensation whatever, whether he be summoned in a civil or in a State case, unless such tales juror actually serves, in which event he shall receive the same pay that jurors of the regular pannel are entitled to; and when the same person shall be summoned in more than one case, as a tales juror, the amount of his compensation shall not depend upon the number of cases he is summoned in, but shall depend upon the length of time he serves.

APPROVED, January 30, 1858.

[No. 86.]

AN ACT

To repeal an act therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the second section of an act approved February 8, 1854, entitled "An act to regulate the circuit court of the county of Choctaw," be and the same is hereby repealed.

APPROVED, January 16, 1858.

[No. 87.]

AN ACT

To accept the grant of land by Congress to the Coosa and Chattanooga Rail Road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That the lands, franchises, rights, powers and privileges, granted to and conferred upon the State of Alabama by an act of Congress entitled, "An act granting public lands, in alternate sections, to the State of Alabama, to aid in the construction of certain rail roads in said State," approved June 3, 1856, be and the same are hereby accepted with the restrictions, and upon the terms and conditions contained in said act of Congress.

SEC. 2. *Be it further enacted,* That so much of the lands, interests, rights, franchises, powers and privileges as are or may be granted and conferred, in pursuance of said act of Congress, in aid of the construction of a rail road from, or near Gadsden, to some suitable point, so as to connect with the Western and Atlantic Rail Road, of the State of Georgia, designated in said act of Congress as running from "Gadsden to connect with the Georgia and Tennessee line of rail roads, through Chattanooga, Wills' and Lookout valleys," are hereby disposed of, granted to, conferred upon and vested in the Coosa and Chattanooga Rail Road Company, a body corporate, created and in existence under the laws of the State of Alabama, for the purposes and under the restrictions specified in said act of Congress; and as soon as said company shall execute and deliver to the Governor of the State a bond, faithfully to use said lands for the purposes of said donation, and abide by and perform the provisions and conditions in said act of Congress contained, said rail road company shall be, and is hereby authorized to take possession and dispose of said lands, pursuant to, and under the provisions and restrictions of the said act of Congress.

SEC. 3. *And be it further enacted,* That the priority and approval of this act shall not be so construed as to prejudice the rights which any other rail road company may have under any act of Congress to any part of said lands; it being the true intent and meaning of this act that the rights of the different rail roads shall be left where they stand under the acts of Congress making donations for their respective benefit.

APPROVED, February 8, 1858.

[No. 88.]

AN ACT

To incorporate the Eastern Bank of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That a bank be established in Eufaula, the capital stock of which shall not exceed five hundred thousand dollars, divided into shares of one hundred dollars each; three fifths of which capital may be subscribed for by individuals, and two fifths of which shall be reserved for the State of Alabama.

Bank establish-
ed.

SEC. 2. *Be it further enacted,* That subscriptions for stock in the said bank, shall be opened in such places as the commissioners to be appointed for receiving subscriptions to stock may designate, on the first Monday of May, next, under the direction and management of nine commissioners to be appointed by the Governor, and who shall have authority to receive individual subscriptions for shares of stock not to exceed the sum of three hundred thousand dollars. The said commissioners, or a majority of them, shall keep their books of subscription open for ninety days, unless the said amount of three hundred thousand dollars, be sooner subscribed; but the books shall, in every event, be kept open for ten days. The said commissioners shall give at least thirty days previous notice of the opening of said books, by advertisement in at least five public newspapers published in this State, and elsewhere in their discretion, and they shall keep a correct record of all their proceedings.

Subscription to
stock.

SEC. 3. *Be it further enacted,* That at the time of admitting such subscription for stock, the said commissioners shall require from the subscribers the sum of ten dollars for each share subscribed; the subscribers shall further pay an instalment of twenty dollars per share, within twenty days after the day of first opening said books; of twenty dollars per share within six months after said opening day; twenty dollars per share within eight months after said opening day, and all payments of stock shall be made in gold or silver coin; twenty dollars per share within ten months after said opening day, and ten dollars per share within one year from said opening day; but any subscriber may, if he think proper, pay in his subscription at earlier days than above limited, and in such case interest shall be equalized with the other stockholders, upon equitable principles. The said commissioners shall deposit all moneys

Amount paid in.

received by them, for safe keeping, in such bank or other place of deposit as the Governor may direct, or in default of such direction, as the commissioners may select, until said new bank shall go into operation, after which payment shall be received by the bank itself. The commissioners shall have power to fill vacancies occurring in their own body by death, absence, or refusal to act, until their duty is performed.

Elect officers.

SEC. 4. *Be it further enacted,* That whenever the sum of two hundred thousand dollars shall have been subscribed to the stock of the said bank, whether by individuals alone, or by individuals and the State of Alabama, combined, or in any other sum not exceeding in the whole five hundred thousand dollars, and after the closing of the books of subscription, and after half of the capital stock subscribed shall have been actually paid in, in gold or silver, the said bank may elect its officers under the following conditions, to wit: The president and directors of said bank thus appointed, shall without loss of time make the necessary arrangements to put the bank in operation, so soon as, pursuant to the provisions of this act, the bank shall possess in gold and silver, one half of the capital stock subscribed; but the said bank shall under no pretext, whatever, commence its banking operations by discounting bonds, bills or notes, by loaning money, or putting into circulation its own notes, until it shall actually and in good faith, have in possession, of its own absolute property, in gold and silver, one half of the whole amount of the capital stock subscribed; and shall have returned to the Governor of this State an account thereof, verified by the oath or affirmation of the president or cashier for the time being, nor shall the said bank so commence its operations, until the Governor, satisfied by the return aforesaid, and by such other evidence as may be offered, shall issue a proclamation declaring that the return aforesaid had been duly made, and that it appeared to his satisfaction, that said company had, of their own absolute property, the amount in gold and silver aforesaid, and were authorized under the provisions of this act, to commence their banking operations as aforesaid. If the said bank, without actually, and in good faith, having of its own property the amount of gold and silver as aforesaid, or without having made return thereof, as aforesaid, or without the proclamation of the Governor, as aforesaid, shall commence any such banking operations, as aforesaid, the charter hereby granted, shall be null and void, and the said bank shall be considered, to all intents and purposes,

as an unchartered bank. And if more subscriptions be offered to the commissioners than they are authorized to receive, they shall scale and allow the subscriptions in such mode as they shall deem equitable, giving in all cases the preference to subscribers, who shall be resident citizens of Alabama, and if still necessary, they shall reduce the largest subscriptions, so as to form the proper amount of capital stock and no more. *Provided*, That no other bank shall be allowed to take stock in said bank.

SEC. 5. *Be it further enacted*, That if on closing the books a sufficient capital shall not be subscribed to authorize the bank to go into operation under the terms of this act, the commissioners may again open such books, afterwards, at such times and places as they may direct, under the same regulations as above provided, until the subscription be sufficient; after the bank officers shall have been elected, if the stock is not full, the board of directors shall have power to cause books to be opened from time to time, until the stock and capital be full, and to appoint commissioners to receive such subscription, under such rules as they may prescribe: *Provided*, 'Thirty days' notice be given by advertisement as above prescribed, of the time and place of receiving such subscriptions.

In case of failure to obtain capital.

SEC. 6. *Be it further enacted*, That the State of Alabama may, when it shall elect to do so, take shares in the capital stock in said bank, equal to two-fifths of its amount on paying a proportional part of the capital, and on equal terms with the subscribers, equalizing interest on equitable terms with the stockholders as to time; and the said State shall in case it takes stock, be entitled to a proportion of power in the direction of the bank, equal to its proportion of stock therein.

State may take stock.

SEC. 7. *Be it further enacted*, That the stockholders of the said bank and their successors shall, when a sufficient amount shall have been subscribed and paid in, be and they are hereby created a corporation and body politic, by the name and style of the Eastern Bank of Alabama, and shall continue until the first day of June, A. D., 1886, and by that name shall be, and they are hereby declared able and capable in law, to have and to own, purchase, receive, possess and retain, to them and their successors lands, rents, tenements, hereditaments, goods, chattles and effects, of whatsoever kind, nature and quality, moneys, obligations, stocks, bonds, bills, notes, securities and choses in action, of whatsoever nature, and the same may sell, grant, demise, alien, convey or dispose of, and may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended,

Created a body corporate.

in any suit, matter or thing depending in any court of law or equity; and shall also have power to make, have and use a common seal, and the same to break, alter and renew at pleasure; also to ordain, establish, alter and repeal by-laws, ordinances and regulations as they may deem necessary and convenient, from time to time, for the government of said corporation, not being contrary to the constitution and laws of the United States, or of the State of Alabama; also to make loans and discounts, deal in money, notes, bills of exchange, bonds, mortgages and securities of all kinds; to receive deposits, to make and issue bank notes, payable on demand to bearer, and to make all contracts and transact all such business as is usually transacted by banks, and as are within the scope of banking operations, and generally to do and to execute all and singular the acts, matters and things which to them it shall appertain to do as incident to bodies corporate; subject, however, to the rules and limitations herein contained: *Provided*, The said bank shall not in any case deal in or purchase merchandise, produce or personal property of any kind, or real estate, except for its necessary banking house buildings and purposes, or by way of securing payment of the debts due to it, nor shall it issue or cause to be made for circulation as currency, any notes or bills not payable on demand.

Proviso.

Directors.

How elected.

SEC. 8. *Be it further enacted*, That the affairs of said bank shall be managed by ten directors, elected annually by the stockholders of said bank, and appointed by the Governor of the State of Alabama on behalf of the State, if the State shall subscribe for stock, and if not, then to be elected by the stockholders alone. At all elections the stockholders shall elect the whole ten directors or a number proportioned to the number of shares held by them collectively, as the case may be, allowing the State to appoint a number proportioned to its stock, and the directors appointed by the stockholders shall be those who shall have received a plurality of the votes given at elections by stockholders, and they shall vote according to the ratio and scale of votes, allowing each stockholder for every share he may hold not exceeding twenty-five, may give one vote; for every two shares above twenty-five and under fifty, one vote; for every three shares above fifty and under one hundred, one vote; and for every five shares over one hundred and under one hundred and fifty, one vote; and for every ten shares over one hundred and fifty, one vote; and after the first election no shares shall confer a right to vote which shall not have been holden by the voter three

calendar months previous to the election. The stockholders shall be entitled to vote either in person or by proxy; the shares of infants may be voted for by their parents or guardians; if married women, by their husbands or trustees; if corporations, by their president; and if co-partners or joint owners, by either, unless the other dissent, in which case neither shall vote; and all powers to authorize persons to vote by proxy shall be in writing.

SEC. 9. *Be it further enacted*, That the first election for directors shall be held so soon as may be, after the books of subscription shall be closed and a sufficient number of shares subscribed; the said commissioners, appointed to receive subscriptions, shall hold said first election on such day as they may appoint, after giving thirty days' notice of the time and place of holding the same; they shall certify to the directors the names of the persons elected, shall hand over their records to them, and the moneys subscribed and paid. The said board, so elected and appointed by the Governor if the State becomes a stockholder, shall proceed to elect a president from their own number, and the board shall continue in office until the expiration of the second Monday in January, following, and until their successors shall enter upon their duties. The subsequent elections for directors shall be held at the banking house, on the second Monday of January, in each year. The new board elected, shall be authorized to enter upon its duties on the day after, and continue until the expiration of the second Monday of January next, thereafter, and until their successors shall organize and enter upon their duties. The polls shall be held by three stockholders, other than directors, appointed by the board to hold the same. The vote shall be by ballot, under such regulations as the bank shall prescribe, but ten days' notice of such elections shall be given in two public newspapers of the county in which said bank is located. No stockholder shall vote at any time while in default of the payment of his installments of stock, as required by law and the regulations of the bank.

SEC. 10. *Be it further enacted*, That no person shall be a director on the part of the stockholders, unless he shall own one thousand dollars worth of stock in the said bank, *bona fide* and as his own property: *Provided*, That this restriction shall not apply to the directors for the State appointed by the Governor, nor unless he shall be a resident citizen of the State, and is not a stockholder in any other bank. *Provided*, This restriction shall apply to the directors on the part of the State.

Failure to elect.

SEC. 11. *Be it further enacted*, That in case no election should be made of directors or president at the time provided by this act, the corporation shall not be for such cause deemed dissolved, but such election shall be had so soon as may be thereafter, on due notice. The board shall have power to fill all vacancies in the office of president and directors, elected by individual stockholders; and the Governor shall fill vacancies on the part of the State to serve until the next board shall organize. Six months' absence, removal from the State, transfer of stock down to a less sum than one thousand dollars, and any cause which shall prevent the attendance of such officer permanently to discharge the duties, or render him incapable of so doing, shall vacate the seat of such president or director.

Vacate.

Cashier.

SEC. 12. *Be it further enacted*, That the president and directors of said bank, shall have power and authority to appoint a cashier and all officers, clerks, agents and servants, as may be necessary, from time to time, to carry on the business of the bank, and prescribe their compensation and duties, and to require proper bonds and securities, for the faithful discharge of their duties in their discretion, and to issue bank bills payable to bearer on demand, at their banking house.

Stock assignable.

Pro viso.

SEC. 13. *Be it further enacted*, That the shares of stock in said bank shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the by-laws and ordinances of the bank; and transfer books shall be kept for that purpose: *Provided*, That in case of the failure of the bank within six months after any such transfer or sale of stock, the party selling and the party purchasing said stock, shall each be held liable for the payment of the debts of the bank, in proportion to the stock so transferred: *Provided further*, That no transfer of stock shall be made so as to vest in any one stockholder a greater number than one eighth amount of the whole number of shares subscribed for in said corporation: *And provided further*, That the bank shall have power to pass by-laws to prevent the assignment of shares by parties owing debts to said bank, until such indebtedness be paid, and to withhold dividends due to persons so being in default, if they deem it proper.

May move for judgment.

SEC. 14. *Be it further enacted*, That if any person or persons, copartnership or body corporate, shall be indebted to said bank as maker, endorser, guarantor, or as drawer or acceptor of any note, bill or bond, and shall delay payment thereof, the said bank may move for judgment and award

of execution against such debtor, in any court of record in the State, where such defendant may reside, or corporation so indebted be located, and judgment shall be thereon rendered as may be lawful and proper: *Provided*, That the defendant in any such case shall have at least thirty days' personal notice of such motion, before the same is made, specifying what the demand is: *Provided, also*, That at the time of making such motion, the bank shall produce and file a certificate of the president or cashier, under the seal of the bank, that the debt claimed is really and *bona fide* the property of the bank: *Provided further*, That if any defendant shall appear and contest the claim, the court shall require the bank to file its declaration and the defendant his plea, and to cause issue to be joined in law or fact, to be tried instanter, or during the term, as the court may direct, by jury or by the court as the case may be, unless on sufficient cause shown, it be necessary to continue the cause, and the court shall give judgment as may be proper: *And provided further*, That the summary remedy thus given shall not preclude any other mode of redress which may be lawful to enforce the right of the bank.

Proviso.

Pleas filed.

SEC. 15. *Be it further enacted*, That the said remedies given for the collection of debts due the bank shall be reciprocal for and against the bank, and in motions against the bank no certificate shall be required to be filed as above set forth, and courts of record in the county in which said bank is located, having jurisdiction, shall hear motions for the recovery of all debts due by said bank, and in all suits against said corporation, service of process on the president or cashier or persons acting as such at said bank, shall be sufficient to bring the defendant into court.

No certificate required.

SEC. 16. *Be it further enacted*, That the said bank shall be subject to the following rules and regulations, and they are declared to be fundamental articles in the constitution of said corporation, to wit:

Article 1st. The bank shall not commence operations until half the capital stock subscribed for, be actually paid in gold or silver, which amount shall in no case be less than one hundred thousand dollars.

General Regulations.

Article 2d. That the State and the individual stockholders or any co-partnership or body politic, having shares in said bank, shall be liable, respectively, for all the debts of the bank in proportion to their stock holden therein, and this provision shall in no wise effect or impair the provisions of the thirteenth section of this act.

Article 3d. The bank shall not be authorized to issue or

Liability.

have in circulation at any one time, notes or bills of the bank to an amount exceeding thrice the amount of its capital stock actually paid in, and in case of an issue greater than herein allowed, the president and directors under whose administration it may happen, shall be liable for the same in their natural and private capacities, and action may be brought against them or either of them in any court, by any creditor of said corporation, and may be prosecuted to judgment, any condition or agreement to the contrary notwithstanding. But the corporation shall not on account of this provision be less liable and chargeable with said excess: *Provided*, That the president and such of said directors who may have been absent when said excess was contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the stockholders at a general meeting which they shall have power to call for that purpose.

Proviso.

Rule 1st. The bank may at its option, receive in payment or on deposit, the notes of the banks of the other States, but shall not pay out the same on loans, checks, orders, drafts or discounts.

Gold and silver.

Rule 2d. The bank shall be required to procure and always keep on hand gold and silver, in a proportion of not less than one third of the amount of the bills it shall have in circulation, and if withdrawn, shall immediately proceed to replace the deficiency.

Rule 3d. No bill or note of a smaller denomination than five dollars, shall be issued, received, or paid out by the bank.

On deposit.

Rule 4th. The bank shall be required to receive money on deposit and pay out the same to order free of charge, in such sums as the depositors may direct: *Provided*, That the bank shall not be required to pay deposits in less sums than twenty dollars, nor to receive in less sums than one hundred dollars.

Rate of interest.

Rule 5th. The bank shall not take, retain, or receive, on its loans or discounts at interest a greater rate than six per centum per annum, but shall be entitled to legal interest on debts due and unpaid.

Rule 6th. No director shall receive any emolument; but the president may receive such compensation as the stockholders shall at a general meeting, assign him.

Rule 7th. No director shall hold his office more than three years out of four in succession, but the president may always be re-elected for the ensuing year.

Rule 8th. Not less than five directors shall constitute a quorum for the transaction of business, of whom the president shall always be one, except in case of sickness, or necessary absence, in which case, his place may be supplied by another director, whom under his hand he shall depute for that purpose, and the director so deputed, may do and transact all the necessary business belonging to the office of president of said corporation under the name of president protem, during the continuance of the sickness or necessary absence of the president.

Quorum.

Rule 9th. Two-thirds of the whole number of directors shall have power to authorize at any time, any three or more of the directors to transact such business of the bank as may be specially confided to them, whose acts shall be as valid as if done by a full board of directors present at the doing thereof, but the directors constituting said two-thirds or more giving such authority shall be liable for the acts done by the said three or more directors, as if they were personally present, and concurring.

To transact business.

Rule 10th. All officers of the bank, the president and directors excepted, shall be required before they enter upon the duties of their office to give bond and security, such as the board shall approve.

Give bond.

Rule 11th. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors proper; but no dividend shall be paid, as profits, which shall trench upon the capital of the bank.

Dividends.

Rule 12th. Once in every term of three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact, full and particular statement of the condition and affairs of said bank, showing the particulars of all suspended debts, and shall give all information to them required, for a proper understanding of its true condition.

Condition.

Rule 13th. The directors shall have power to call a general meeting of the stockholders, at any time they may deem necessary and expedient, and a number of stockholders not less than thirty, who, together shall be proprietors of five hundred shares of stock or upwards, may at any time, call a general meeting of the stockholders relative to the institution, giving at least six weeks notice in the newspaper of the town or city in which said bank is located, of such meeting, and specifying the purpose or purposes thereof.

General meeting.

Rule 14th. The said bank shall make to the comptroller of public accounts, a return once in every twelve months,

Return to comptroller.

of its true situation, showing the amount of its assets and liabilities, and of what they consist, also a list of the stockholders of said bank, and a list of the shares owned by each.

Governor to ap-
point Commis-
sioners.

Rule 15th. The Governor of the State shall appoint, biennially, three commissioners, whose duty it shall be to examine the moneys, books, papers, and accounts of the said bank, and otherwise examine into its condition, and make report thereon, within two months after their appointment. The bank shall furnish all information to the said commissioners necessary for an accurate examination, and shall pay to said commissioners, four dollars per day each, not exceeding fifteen days each; and the said commissioners shall each make affidavit before an acting justice of the peace, that they have not previous to the time of their visit, communicated to the officers of said bank, for the purpose of examination as aforesaid, which said affidavit shall be filed in the office of the secretary of state.

Bonus.

SEC. 17. *Be it further enacted*, That by way of bonus for granting this charter, the said bank shall pay, annually, into the treasury of the state, on or before the first day of November in each year, and while the bank shall continue banking business, an amount equal to thrice the taxation which may be assessed on every hundred dollars of the value of lands for the time being, by the State, on each share of the stock of the bank, which shall be in lieu and composition of all taxation whatever, by the State, county, city or other authority, on the capital stock or business of the bank: *Provided*, That all real estate, owned by the bank shall be subject to pay taxes as if held by individuals.

Notes refused to
be redeemed.

SEC. 18. *Be it further enacted*, That whenever any bill or bills, notes, checks or other issues of said bank are presented at the counter of the same for redemption, and the bank shall refuse to redeem the same, either in gold or silver, the cashier shall write across the back of said bill or bills, checks or other issues, the word "protested," with the day and date, and shall sign the same, and all such bills, notes, checks or other issues so protested shall draw twelve per cent. interest from the date of the protest until the same shall be redeemed, together with the interest that may have accrued thereon, and if any such note, bill, check or other issues be presented to said bank and payment refused, and said officer failed to note the same protested, as above provided, such officer, so failing and his securities, shall be subject to pay double the amount of the demand offered and refused, to be recovered by the person aggrieved, in

any court of record in the county where said bank may be located.

SEC. 19. *Be it further enacted*, That no stockholder of said bank shall receive any loan from the bank either directly or indirectly, until the whole amount of his stock shall be paid, and no stockholder, while any portion of his stock is unpaid, shall be otherwise a debtor to said bank, nor shall said bank, under any pretext, hold any stock, purchased by it of the stockholders for more than six months from the date of said purchase.

No loans to directors.

SEC. 20. *Be it further enacted*, That if any debt or demand due from said bank for an amount exceeding one hundred dollars, shall remain unpaid for more than ten days after proper demand made for payment, the holder of such debt may file a bill in the chancery court in the county or district in which said bank may be located, for the settlement of all the debts of the banks, if he elect so to do, and may on proof, by affidavit of such refusal to pay on demand, and of the continuation of such refusal made to any chancellor or judge of any circuit court of the State, pray an injunction to restrain the said bank, and all its officers from paying out, or in any way transferring or delivering to any person, any money or assets, of said bank, or incurring any obligation or debt until such order be vacated or modified, and if such chancellor or judge shall be of opinion that the debt is justly due, and that the bank has no just defence against the demand, and if it shall appear expedient and necessary upon the proof presented, in order to prevent fraud and injustice, he shall grant an order for such injunction: *Provided*, The bank shall have had such reasonable notice of the application, as the chancellor or judge may prescribe, and shall not be able to show sufficient cause against the same; and the said judge or chancellor shall then proceed further to inquire, on such further notice as he may prescribe whether the said bank be clearly solvent or not, and may require the officers of the bank to exhibit any and all of its books, papers, accounts, assets, moneys and effects, and to be examined on oath touching the same, before him, or a referee to be appointed by him, and if it shall appear that the said bank is not clearly solvent, then he may make an order declaring the same to be insolvent and requiring its affairs to be wound up and settled; and further, if in his opinion, the safety of the creditors shall require it, such judge or chancellor may appoint a receiver or receivers to take charge of all the assets of the bank, and to close and settle its affairs; and may make all such

Amounts due and unpaid.

Provido.

orders for accomplishing the same safely, properly and economically, as the case may seem to require; but if it shall appear, on such examination that the bank is clearly solvent, or if there shall be a deficiency of assets, and the bank shall procure and give good security for the payment of any deficiency which may exist, and that the assets shall prove sufficient to satisfy all the debts of the bank to the satisfaction of the judge or chancellor, then no such receiver shall be appointed; and on the payment of the debt complained of, the injunction and proceedings shall be dismissed. Such order shall be made for the payment of costs as the judge or chancellor shall deem just and proper, and the proceedings shall be returned and made of record in the chancery court of the county or district in which such bank may be located, and shall be subject to revision and correction by the supreme court as in other cases.

When bank insolvent.

Stockholders liable.

SEC. 21. *Be it further enacted.* That in case the said bank be found insolvent and settlement of its affairs be ordered as herein provided, the same shall be done upon bill filed in said chancery court, under the orders of the court and rules of chancery, and full distribution shall be made of the assets according to the rights of all parties. But the holders of notes and obligations, issued by the bank for circulation as money, shall be first called in and paid, and shall have priority over other debts due from the bank, and after the assets of the bank are exhausted, if they be not sufficient to pay all debts and liabilities, a further call shall be made on the stockholders in the bank for a further payment of capital over and above the sum of one hundred dollars, of an amount equal to the deficiency, which shall be apportioned among all the shares of the stock, as well as the individual shareholders of the State, and an order shall be made by the court for the payment by each stockholder of the sum or proportion due on his shares of stock, and each shareholder shall pay the sum so assessed to him severally, in proportion to his stock, which shall be collected by the receiver and applied, and in case the State shall hold stock in said bank it shall provide for and pay its proportion of this additional capital, in proportion to the stock so held in the bank, to be applied in like manner.

Remedy for closing bank.

SEC. 22. *Be it further enacted.* That the summary remedy in this act specially given for settling up and closing the affairs of said bank shall apply to the case of insolvency, but shall not be allowed in the case of a suspension only, by the bank of specie payment, when and so long as such suspension shall be sanctioned by the General Assembly, or

by the Governor of the State, during the recess of the General Assembly. But nothing in this act contained shall be construed so as to deprive a creditor of said bank from his right to suit, in any other appropriate mode of proceeding, or to prevent the General Assembly from hereafter regulating by a general law in relation to banking institutions, the mode of enforcing and satisfying the rights of creditors of said bank: *Provided*, Any bill holder shall also have the right to move in any court having jurisdiction, or before any justice of the peace in the city or county in which said bank is located, as the case may require, for the collection of any bill, the payment of which may be refused.

Right of bill holders.

SEC. 23. *Be it further enacted*, That notwithstanding the expiration of the time for which the said corporation is created, it shall be lawful to use the corporate name, style and capacity, for the purpose of suits and for final liquidation and settlement of the affairs and accounts of the corporation, for the sale and disposition of its estate, real and personal, and collection of its assets, but not for any other purpose, nor for a period exceeding two years after the expiration of said term of incorporation: *Provided*, That no stockholder of said bank shall be permitted to owe the said bank, either directly or indirectly, at any time, more than one half of the amount of stock owned, and actually paid for: *Provided*, That the provisions shall not apply to stockholders owning less than twenty thousand dollars in said bank.

Privileges.

Limitation character.

APPROVED, February 8, 1858.

[No. 89.]

AN ACT

To incorporate the Citronelle Female Academy of Mobile county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Stephen Davis, George L. Pearce, Joseph Borden, and E. S. Trigg, their associates and successors in office, be and they are hereby constituted and declared a body corporate, by the name and style of "the Trustees of the Citronelle Female Academy," and by that name they may sue and be sued, plead and be impleaded, answer, and be answered

Name and style.

Seal.

unto, in all kinds of actions, both in law and equity, may receive donations, purchase property of any kind, whether real or personal, or mixed, the same to hold, use, and dispose of at pleasure, and to have and use a common seal. They shall further be empowered to make such rules, regulations and by-laws for the good government of said academy as may be necessary, the same not being repugnant to the Constitution or laws of this State.

SEC. 2. *Be it further enacted*, That so long as the property, real, personal, or mixed, of said corporation shall be used for the purposes of education, the same shall be exempt from taxation of any kind. *Provided*, said property does not exceed in value the sum of ten thousand dollars.

Sale of Liquor
prohibited.

SEC. 3. *Be it further enacted*, That it shall not be lawful for any person to sell spirituous liquors or wines at any point within two miles or less of said academy, except for medicinal purposes; and if any person shall sell spirituous liquors or wines in violation of the provisions of this section, he shall be subject to indictment, and on conviction, may be fined in a sum of not less than one hundred, nor more than five hundred dollars for each and every such offence.

APPROVED, February 5, 1858.

[No. 90.]

AN ACT

To incorporate the Bethel Male and Female Academy in the county of Pike.

Name and style.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Samuel B. Carroll, Solomon N. Sneed, William T. Harris, John N. Register, and Samuel H. Wilson, and their successors in office be, and they are hereby constituted a body corporate and politic, in deed and in law, by the name and style of "the president and trustees of the Bethel Male and Female Academy," and by that name may sue and be sued, plead and be impleaded, answer and be answered unto, in all kinds of actions, suits in law and in equity; may receive donations, purchase property of any kind, whether personal, real, or mixed, for the use and benefit of said institution, the same to have, and hold and dispose of at

pleasure, for the use above specified, and may have and use a common seal.

SEC. 2. *Be it further enacted*, That they shall be empowered to make such rules, regulations and by-laws for the government of said academy as may be necessary, the same not being repugnant to the laws of the United States, or this State.

SEC. 3. *Be it further enacted*, That the said trustees shall have power to elect a president, treasurer, and secretary, and prescribe the duties of each; and they may organize such faculty for the superintendence of said academy as they may think proper; they may fix the rates of tuition, and make such regulations, and provide such forms for the granting of certificates, diplomas, or other evidences of scholarship, as they may choose.

APPROVED, February 5, 1858.

[No. 91.]

AN ACT

To incorporate a Male High School in the town of Moulton in this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Isaac N. Owen, Isaac Van Eaton, Michael West, Henry W. Warren, William McKelvy, William A. Gilbert, Thomas D. Simms, T. J. McDaniel, Levi F. Warren, Darius Lynch, William F. Owen, Asa Hodges, and Thomas M. Peters be, and they are hereby constituted a body corporate, under the name and style of "the trustees of the Male High School at Moulton," to be located at the town of Moulton, in this State, and the persons above named, and their successors in office, shall constitute the board of trustees of said school. Body corporate.

SEC. 2. *Be it further enacted*, That the number of said trustees shall be thirteen, and the persons above named shall continue in office until their successors are duly appointed and accept their appointments, and a majority of the trustees of said school shall make a quorum for the transaction of business, and a majority of those remaining in office shall form a quorum for the election of new members of the board, to fill vacancies. Quorum.

Treasurer give
bond.

Removal.

SEC. 3. *Be it further enacted,* That said trustees shall have power to elect one of their number president of their board, also to elect a secretary and treasurer for the same, and to define the duties of each of these officers, and to require of their treasurer a bond with security, if they think fit. They shall also have power to fill all vacancies that may occur in their board, and they may delegate this power to fill vacancies to their president, or to any other officer or member of their board, as they may think fit, and if it is not exercised by the board, then the president of the board shall have power to fill all vacancies that may happen, until the board shall act upon the subject, and said trustees shall also have power to remove any member or officer of their body for misconduct, and appoint some other person, or persons, in the place of the person, or persons, so removed. They shall also have power to procure and select suitable and competent teachers for said school, and dismiss the same, as they may think best for the interest of said school, to prescribe the course of study, and fix the rate of tuition in the same, and to make, pass, and ordain all such by-laws, rules and regulations for the good government and management of said school and corporation that they may think needful: *Provided* the same be not contrary to the Constitution of the United States and the Constitution and laws of this State.

Exemption.

SEC. 4. *Be it further enacted,* That said corporation, by the corporate name, shall be, and is hereby made capable of suing and being sued, pleading and being impleaded in all the courts of this State, also of contracting and being contracted with, of taking, receiving, holding, and owning donations of moneys, or any kind of property, whether the same be real or personal, for the use of said school, and the property of said corporation, to the value of fifty thousand dollars, shall be free and exempt from all taxation and payment of taxes, so long as it is used, or kept for the purposes of said school, and all subscriptions or agreements for the payment of money or other thing, or the performance of any labor, service, or duty, to or for said corporation or school, or for the use or benefit of either, shall be binding and recoverable in law or equity, as the case may be, by suit, in the name of said corporation, whether such subscription or agreement be made upon a consideration deemed valuable in law, or not. The subscription, or agreement itself, shall be held consideration sufficient in law to make the same binding on the parties to the same; and said trustees shall also have power to own lands and other property, and to receive deeds and titles to the same, and to sell and convey

the same by deed or otherwise, and to make and sell stock for the use of said corporation and school, to the amount of twenty-five thousand dollars, and to enter into and make all contracts and agreements, and investments of their funds, for the use of said school, and in general to do, suffer, and perform all other acts and things that they may deem necessary to promote the interest of said school, that may comport with the purposes of this act.

APPROVED, February 2, 1858.

[No. 92.]

AN ACT

To amend an act approved February 3, 1852, to incorporate the North Alabama College.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act approved February 3, 1852, entitled an act to incorporate the North Alabama College, be and the same is hereby so amended as to invest the North Alabama Presbytery with all the powers, privileges, and restrictions in relation to said college, which were by the said act vested in the Synod of West Tennessee.

APPROVED, December 19, 1857.

[No. 93.]

AN ACT

To incorporate Forrest Hill Female Seminary, in Talladega county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Charles P. Samuel, Robert Samuel, and William Stone, be and they are hereby constituted a body corporate sole, by the name and style of the Forrest Hill Female Seminary, situated in the town of Talladega, Alabama, and by that name shall have full power and authority to have and to use a common seal, and the same to break, alter

or amend at pleasure, to sue and be sued, to receive subscriptions, gifts, and donations, and to make purchase of real and personal estate, and to sell and dispose of the same where it may be deemed expedient: *Provided*, the same do not exceed fifty thousand dollars; and to grant certificates or diplomas, or such other evidences of scholarship as they may prescribe; and further, to pass such by-laws, rules and regulations as the said corporation may deem essential for the government of the same.

APPROVED, February 5, 1858.

[No. 94.]

AN ACT

To incorporate the Eastaboga Academy, in Talladega county.

Body corporate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That James Montgomery, Isaac Kirksey, William Montgomery, D. H. Jackson, C. G. Cunningham, and J. E. Groce, of the county of Talladega, and their successors in office, are hereby constituted and declared a body corporate, by the name and style of the "Trustees of Eastaboga Academy," and by that name may sue and be sued, plead and be impleaded in all kinds of actions, either in law or equity, may receive donations, purchase, possess, and hold property real or personal, for the sole use and benefit of said academy, the same to hold, use or dispose of at pleasure, and to have and use a common seal. They are also empowered to make such rules, regulations, and by-laws for the government of said academy as may be necessary, the same not being repugnant to the Constitution or laws of this State.

Liquor prohibited.

SEC. 2. *Be it further enacted*, That it shall not be lawful for any person to sell spirituous or vinous liquors within one mile in any direction of said academy, and if any person shall sell spirituous or vinous liquors contrary to the provisions of this act, such person shall be subject to indictment, and on conviction, may be fined in a sum not less than one hundred, nor more than five hundred dollars for each offence.

APPROVED, February 5, 1858.

[No. 95.]

AN ACT

To incorporate the Fort Browder Male Academy, in Barbour county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Wilson M. Bales, Seaborn Jones, and Levi R. Wilson, and their successors in office be, and they are hereby constituted and declared a body corporate, by the name and style of the Trustees of the Fort Browder Male Academy, and by that name may sue and be sued, plead and be impleaded, answer and be answered unto, in all kinds of actions, both in law and equity, may receive donations, purchase property of any kind whatever, real, personal, or mixed, for the sole use and benefit of the said academy, the same use, hold, or dispose of at pleasure, and have and use a common seal; they shall further be empowered to make such rules, regulations, and by-laws for the good government of said academy as may be necessary, the same not being repugnant to the Constitution of the United States, or the Constitution and laws of this State. Body corporate.

SEC. 2. *Be it further enacted,* That it shall not be lawful for any person to sell spirituous liquors or wines at any point within half a mile of said academy, except for medical purposes, and if any person shall sell spirituous liquors, or wines, at any point within half a mile or less of said academy in violation of the provisions of this section, such person shall be subject to indictment, and on conviction may be fined in a sum not less than one hundred, nor more than five hundred dollars for each and every such offence. Liquor.

APPROVED, February 8, 1858.

(No. 96.)

AN ACT

To incorporate the Fayetteville Male and Female Academy, in Talladega county, and for other purposes.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Daniel Wallace, Allister McKenzie, William Wallace, Michael Bennett, William McPherson, and their successors in office be and they are hereby constituted and declared a body corporate, by the name and style of the "Trustees of the Fayetteville Male and Female Academy," and by that name may sue and be sued, plead and be impleaded, answer and be answered unto in all kinds of actions, both in law and equity, may receive donations, purchase property of any kind whatever, real or personal, or mixed, the same to hold, sell, or dispose of at pleasure, and to have and use a common seal. They shall further be empowered to make such rules, regulations, and by-laws for the good government of said academy as may be necessary, the same not being repugnant to the Constitution of the United States, or the Constitution and laws of this State.

Body corporate.

Liquor.

SEC. 2. Be it further enacted, That it shall not be lawful for any person to sell spirituous liquors or wines, at any point within one mile or less of the said academy, except for medical purposes; and if any person shall sell spirituous liquors, or wines, in violation of this section, such person shall be subject to indictment, and on conviction may be fined in a sum of not less than one hundred, nor more than five hundred dollars for each and every such offence.

APPROVED, February 8, 1858.

[No. 97.]

AN ACT

To extend an act to incorporate the Graefenberg Medical Institute.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the "Act to incorporate the Graefenberg Medical Institute of Alabama," approved February 7, 1852,

is hereby continued in force for the term of twenty years from the expiration of its present term of incorporation.

APPROVED, February 3, 1858.

[No. 98.]

AN ACT

To incorporate the Mobile Mechanics' Institute.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Robert S. Kirk, T. J. Barnard, J. W. Vinlance, John A. Kirkbride, Thomas S. James, and their associates and successors be, and they are hereby created a body corporate and politic, under the name and style of the "Mobile Mechanics' Institute, with all the privileges, rights and powers granted to the Montgomery Mechanics' Association, by an act entitled "An act to incorporate the Montgomery Mechanics' Association, and the Mobile Mechanics' Association," approved 2d February, 1852.

APPROVED, February 6, 1858.

[No. 89.]

AN ACT

To establish a Medical Board in the county of Pike.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Doctors J. P. W. Amerine, J. L. Nixon, Joseph B. Fannin, O. S. Johnson, J. B. Lucky, and O. F. Knox, they and their associates and successors in office, are hereby constituted a board of Physicians for the county of Pike, to be known as the Pike County Medical Board, and they, or a majority of them, are authorized to elect such officer, or officers, as they may deem necessary to a proper discharge of the duties of said corporation, and a majority of said board shall constitute a quorum, who shall have power to fill vacancies caused by death, resignation, or otherwise, or discharge any and all other business, incumbent on said board, as in law provided for.

SEC. 2. *Be it further enacted*, That said board shall meet at Troy, in said county, on the first Monday in April next, and at such other times as they may desire, having the power to regulate their meetings to suit their own convenience, and the president of said board shall have power to call extra meetings when necessary.

SEC. 3. *Be it further enacted*, That the jurisdiction of said medical board, in the exercise of its privileges and duties, shall extend over the county of Pike, and license granted, shall be good and valid in all parts of the State.

SEC. 4. *Be it further enacted*, That no person shall be allowed to practise medicine, or surgery, in said county, unless he be licensed by the said board, or unless *such* is at this time a practising physician, or a graduate of some respectable college, or has a license from some medical board in this State.

SEC. 5. *Be it further enacted*, That nothing in this act shall be so construed as to effect those who may practise the botanical system, as now regulated by law.

APPROVED, February 6, 1858.

(No. 100.)

AN ACT

To incorporate the Montevallo Male and Female Collegiate Institutes of the Union Synod of the Cumberland Presbyterian Church of Alabama.

WHEREAS: The Union Synod of the Cumberland Presbyterian Church of Alabama have resolved to establish a male and female institution of learning, of a high and general character, within the limits of the said Synod, and have in fact located the same at the town of Montevallo, in the county of Shelby, to be known as the Montevallo Male and Female Collegiate Institutes of the Union Synod of the Cumberland Presbyterian Church; Now, in order to give full and legal effect thereto—

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Joseph D. Neely, Edward Davis, John P. Morgan, James McAmis, H. M. Jones, Edmund Cobb, A. S. Woolley, Needham Lee, L. J. Hale, W. L. Prentice, E. M. Carlton, Samuel Acton, Sr., and T. H. Booth, and their

successors in office be, and they are hereby constituted a body politic and corporate, by the name of the Trustees of the Montevallo Male and Female Collegiate Institutes of the Union Synod of the Cumberland Presbyterian Church of Alabama, and by that name shall be capable in law and equity to sue and be sued, plead and be impleaded, grant or receive, contract or be contracted with, may receive donations, bequests and devices, purchase and hold lands, or other real estate and personal property, for the use and benefit of the said institute; they may have and use a seal of such device, or devices, as they may deem meet, and the same at pleasure revoke, and to do all other things necessary and proper for the management of said institutes, and the promotion of education therein: *Provided*, That in making titles to real property under order of the board of trustees, the same shall be signed by the president and countersigned by the secretary.

Body corporate.

SEC. 2. *Be it further enacted*, That the trustees shall be elected annually from the date of the election of the above named trustees, (who constitute the board,) by the Union Synod of the Cumberland Presbyterian Church of Alabama, and shall continue in office until their successors are duly elected and prepared to enter on their duties, and the said synod may, at their pleasure, change the number of trustees to be appointed, but there shall never be less than nine, and any five trustees shall constitute a quorum for the transaction of business; and the said synod, which shall be the patron of the said institutes, shall, whenever they deem it proper, have a right to appoint a committee to visit the said institutes, and examine into every thing appertaining to their management, and into the conduct of the trustees, or of the faculty, or of any member thereof.

Hold office.

SEC. 3. *Be it further enacted*, That the board of trustees shall have power to elect their president, vice president, secretary and treasurer, from their own body; they shall also have power to fill all vacancies which may occur in the board, by death, resignation or otherwise.

SEC. 4. *Be it further enacted*, That said board shall have power to elect professors, tutors and other officers of said institutes as they may think proper, and fix their salaries, and prescribe their duties, and who shall constitute the faculty of said institutes, and who may instruct in all the arts and sciences, grant diplomas, and confer all the degrees of literary distinction usual in similar male and female institutes of learning in the United States. The said trustees shall have also power to adopt a code of by-laws, for the

Faculty.

government of said institutes, and for their own government, and to alter and amend the same at pleasure: *Provided*, The same shall not be inconsistent with the constitution or laws of the State of Alabama, or of the United States.

Endowment.

SEC. 5. *Be it further enacted*, That said trustees may procure an endowment for either or both of said institutes, or any professorship therein, the interest of which shall be alone expended: *Provided*, Said fund and interest shall be under the control and direction of the trustees.

SEC. 6. *Be it further enacted*, That no misnomer or misdescription of said corporation herein created, in any will, deed, gift, grant, devise, or other instrument of contract or conveyance, shall in any way defeat or vitiate the same, but the same shall take effect in like manner as if said corporation was rightfully named: *Provided*, It be sufficiently described to ascertain the intentions of the party, or parties, to such instrument.

Exemption.

SEC. 7. *Be it further enacted*, That the property and estate, real and personal, held and owned by the trustees of the said institutes, under this act, shall be forever free and exempt from taxation.

APPROVED, February 6, 1858.

[No. 101.]

AN ACT

To incorporate the Yorkville Academy of Pickens county.

Body corporate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John J. W. Payne, Milton Archer, John L. Guyton, John A. Pridmore, M. B. Arrington, George Brown, and Alexander Brownlee, and their successors, of Pickens county, Alabama, be, and are hereby incorporated under the style of the Yorkville Academy, and by that name shall be entitled to the privileges and subject to the duties imposed upon like corporations by the laws of Alabama.

Liquor.

SEC. 2. *And be it further enacted*, That it shall not be lawful for any person, or persons, to sell intoxicating liquors within three miles of the said academy at Yorkville, except in good faith for medical, mechanical or sacramen-

tal purposes ; and any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction be fined not less than one hundred dollars: *Provided*, That this act shall not be construed to prevent any licensed retailer, within said limits, from selling under said license heretofore granted until the same expires by its own limitation.

APPROVED, February 8, 1858.

[No. 102.]

AN ACT

To incorporate the Bellmont Male and Female Academy, in Sumter county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That George J. Golgin, Thomas L. Bevil, Stephen Horton, James G. Coates, I. L. Tutt, and Joseph Gillespie, and their successors in office be, and they are hereby constituted and declared a body corporate by the name and style of "The Trustees of Bellmont Male and Female Academy," and by that name may sue and be sued, plead and be impleaded, and answer and be answered unto, in all kinds of actions, both in law and equity; may receive donations, purchase property of any kind, whether real or personal, or mixed, the same to hold, use or dispose of at pleasure, and to have and use a common seal; they shall further be empowered to make such rules, regulations and by-laws, for the good government of said academy, as may be necessary, the same not being repugnant to the constitution and laws of the State. Body corporate.

SEC. 2. *Be it further enacted*, That it shall not be lawful for any person to sell spiritous liquors, or wines, at any point within two miles of said academy, except for medical purposes; and if any person shall sell spiritous liquors, or wines, in violation of the provisions of this section, such person shall be subject to indictment, and on conviction may be fined in the sum of not less than one, nor more than five hundred dollars for each and every such offence.

APPROVED, February 5, 1858.

[No. 103.]

AN ACT

To incorporate the Lincoln Male and Female Academy, in Talladega county.

Body corporate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Jesse Harden, Warren Truss, J. W. Beavers, John N. Sims, Arthur Truss, J. F. McClelen, L. S. Green, B. H. Dulaney, and James Abercrombie, they and their associates and successors in office be, and they are hereby constituted a body corporate and politic, in deed and in law, by the name and style of the Lincoln Male and Female Academy, and by that name may sue and be sued, plead and be impleaded, answer and be answered unto, in all kinds of actions, both in law and equity; may receive donations, purchase property of any kind, whether real, personal, or mixed, for the sole use and benefit of the said institution, the same to hold, use, or dispose of at pleasure, and have and use a common seal; they shall further be empowered to make such rules, regulations and by-laws, for the good government of said institution, as may be necessary, the same not being repugnant to the constitution of the United States, or the State of Alabama, or the laws thereof.

SEC. 2. *Be it further enacted,* That from and after the expiration of six months, from the date of this act, it shall not be lawful for any person, or persons, to retail, or vend, any spiritous or intoxicating liquors, within three-fourths of a mile, or less, of said academy, except for medical purposes, and any person, or persons, offending against the provisions of this section, shall be deemed guilty of a misdemeanor, and on conviction upon indictment in the circuit court, shall be fined in a sum of not less than one, nor more than three hundred dollars, at the discretion of the jury trying the same, to be disposed of as other funds now are by law.

SEC. 3. *Be it further enacted,* That all laws and parts of laws, inconsistent with this act, are hereby repealed.

APPROVED. February 5, 1858.

No. 104.]

AN ACT

To establish a Medical Board, in Autauga county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the following doctors of medicine, their associates and successors, to wit: Thomas A. Davis, Charles M. Howard, Duncan McNeill, Samuel P. Smith, Joseph H. Vincent, and Joseph D. O. Bannon be, and are hereby constituted a board of physicians for the county of Autauga, to be known as the Medical Board of Autauga county, and they, their associates and successors, by that name, Body corporate- may sue and be sued, plead and be impleaded in any court of law and equity in this State, as a private person may be, and they, or a majority of them, are hereby authorized to elect a president, secretary, treasurer, and such other officer, or officers, as may be deemed necessary to a proper discharge of the duties of said corporation, and discharge all the duties incumbent upon them as members of said board.

SEC. 2. *Be it further enacted,* That said board shall consist of not more than nine members, nor less than five, a majority of whom shall constitute a quorum to transact business, and that all vacancies from resignations, removal, Quorum. death, or otherwise, shall be filled by the remaining members of said board

SEC. 3. *Be it further enacted,* That said board shall meet annually on the second Monday in May of each year, and at such other times as may be appointed or deemed necessary: *Provided,* That the annual meetings shall be held at Meet. Prattville and Autaugaville alternately, but called meetings may be held at such place as the board may direct.

SEC. 4. *Be it further enacted,* That it shall be the duty of said board to examine applicants for permission to practice medicine, to grant licenses in their discretion, and to Applicants. do all other business authorized or required of medical boards in this State, and they may make such by-laws, rules and regulations for the proper government of the body, not inconsistent with the laws and constitution of this State.

SEC. 5. *Be it further enacted,* That said board is hereby required to have and keep a record of their constitution and laws, and to whom they grant license to practice, and all other acts of said board, which record shall be subject to the inspection of any and all persons interested, and they

Donations.

are further required to procure and keep an official seal, with such device as may be deemed suitable, and they, their associates and successors, are hereby declared capable in law and equity to receive, hold and enjoy donations of real or personal property, not exceeding ten thousand dollars in value, and to have and to hold the same by gift, grant, or purchase, in fee simple or otherwise, and do and perform all acts, and liable to the same rules and laws as govern, or may be done, by medical boards in this State.

SEC. 6. *Be it further enacted*, That the jurisdiction of said board, in the exercise of its privileges, shall extend over the limits of the county of Autauga, but all licenses granted shall be held good and valid in all parts of the State, and no person shall be allowed to practice medicine in said county unless licensed by this board, or unless such person is at the time a practicing physician, or a graduate of some respectable medical institution or college, or has a license from some medical board in this State.

Botanic.

SEC. 7. *Be it further enacted*, That nothing in this act shall be so construed as to effect the rights or privileges of those who may practice the botanic system as now regulated by law.

APPROVED, February 2, 1858.

(No. 105.)

AN ACT

To incorporate the Midway Academy, in Barbour county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That James M. Feagin, Eli N. Ford, John C. P. Kinmore, Haywood Pipkin, Matthew Hall, J. J. Dickson, James M. Pruitt, A. H. King, G. W. McDuffie, and their successors in office be, and they are hereby constituted and declared a body corporate, by the name and style of the Trustees of the Midway Academy, and by that name may sue and be sued, plead and be impleaded, answer and be answered unto, in all kinds of actions, both in law and equity; may receive donations, purchase property of any kind, whether real, personal, or mixed, for the sole use and benefit of said academy, the same to hold, use or dispose of at pleasure, and have and use a common seal; they

shall further be empowered to make such rules, regulations and by-laws, for the good government of said academy, as may be necessary, the same not being repugnant to the constitution of the United States, or of the constitution and laws of this State.

SEC. 2. *And be it further enacted*, That it shall not be lawful for any person to sell spiritous liquors, or wines, in less quantities than one quart, within one mile of said academy, except for medical purposes; and if any person shall sell spiritous liquors, or wines, in violation of the provisions of this act, such person shall be subject to indictment, and on conviction may be fined not less than one hundred, nor more than five hundred dollars, for each and every such offence.

APPROVED, February 6, 1858.

[No. 106.]

AN ACT

To incorporate the Winston Male College.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That P. M. Shepard, Sr., John F. Shepard, and P. M. Shepherd, Jr., and their associates and successors in office be, and they are hereby constituted and declared a body corporate by the name and style of the Trustees of the Winston Male College, and as such may have a common seal, make contracts, sue and be sued, elect such officers and teachers as they may choose, and remove the same at pleasure, adopt ordinances, rules, or by-laws, and all such regulations as they may deem advisable for the interest and good government of said college, consistent with the constitution and laws of this State, grant diplomas on adequate attainments, as well as certificates or other evidences of scholarship to students of said college. Body corporate.

SEC. 2. *Be it further enacted*, That the Governor be, and he is hereby authorized to make the necessary arrangements with the General Government to have in lieu of the common muskets, sixty-four cadet muskets, and one six pound brass piece or cannon, and the usual accoutrements thereunto belonging, for the use of said college, for instructing in military and artillery tactics; said muskets, brass piece, Duty of Governor.

Bond.

and accoutrements when received, shall be delivered over to P. M. Shepard and John F. Shepard, of the county of Tallapoosa; *Provided*, The said P. M. Shepard and John F. Shepard shall, before receiving the same, give bond with good and approved security, to the Governor and his successors in office, for the sum of two thousand dollars, for the safe keeping in good condition, and return in good order to the State of Alabama, said arms and accoutrements whenever said college shall cease to use them for training and military discipline, or whenever required by the Governor of the State.

SEC. 3. *Be it further enacted*, That the Governor is hereby vested with full power to make all the arrangements necessary to carry into effect the provisions in the foregoing sections of this act; *Provided*, Said arms provided for in the second section of this act, may be furnished out of any arms now in possession of or belonging to the State.

APPROVED, February 2, 1858.

[No. 107.]

AN ACT

To incorporate Hurricane Academy, in Barbour county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Solomon G. Burke, John Wright, and Absalom Weaver, and their successors in office be, and they are hereby constituted and declared a body corporate, by the name and style of "the Trustees of Hurricane Academy," and by that name may sue and be sued, plead and be impleaded, answer and be answered unto, in all kinds of actions, both in law and equity, may receive donations, purchase property of any kind, whether real or personal or mixed, the same to hold, use, or dispose of at pleasure, and use a common seal; they are further empowered to make such rules, regulations, and by-laws, for the good government of said academy as may be necessary, the same not being repugnant to the constitution of the United States, or the constitution and laws of this State.

SEC. 2. *Be it further enacted*, That it shall not be lawful for any person to sell spirituous liquors or any wines, at any point within one mile of said academy, except for med-

ical purposes, and if any person shall sell spirituous liquors of any kind, in violation of the provisions of this act, such person shall be subject to indictment, and on conviction may be fined in a sum of not exceeding two hundred dollars for each and every offence.

APPROVED, February 2, 1858.

[No. 108.]

AN ACT

To incorporate the schools of Loachapoka, in Macon county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That O. D. Cox, L. B. Stroud, Wm. Ellis, James Wooten, and H. T. Crowder, and their successors in office be, and they are hereby declared to be a corporate body, by the name and style of "the Trustees of Loachapoka Schools," and by that name may sue and be sued, plead Body corporate. and be impleaded, may own real or personal property, or both, for the use and benefit of said schools, not to exceed in value the sum of ten thousand dollars, and may adopt such by-laws as may be necessary for the regulations of the schools and the body corporate; *Provided,* That none of their provisions conflict with the constitution and laws of this State, and the United States.

SEC. 2. *Be it further enacted,* That from and after the passage of this act it shall not be lawful for any person to sell any spirituous or intoxicating liquors, in any quantity less than one gallon, any distance within two miles of said academies, and any person or persons so offending, upon conviction thereof in the circuit court of Macon county, shall be fined in the sum of five hundred dollars, one-half Liquor prohibited. to be paid into the county treasury, and the other half into the treasury of said schools, for the use and benefit thereof.

SEC. 3. *Be it further enacted,* That no provision of this act shall be so construed or applied so as to prohibit regular physicians from the purchase of ardent spirits for medical purposes in any quantity.

APPROVED, January 26, 1858.

[No. 109.]

AN ACT

Supplemental to an act incorporating the Society Hill High School.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the words "or for any purposes," in section 3d, in the act passed at the present session, entitled "an act to incorporate the Society Hill High School," shall not be construed to prevent practising physicians from administering the intoxicating liquors, in said act specified, as medicine.

APPROVED, January 14, 1858.

[No. 110.]

AN ACT

To incorporate the "Society Hill High School."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Academy in the town of Society Hill, in the county of Macon, is hereby incorporated by the name of the "Society Hill High School," and by that name shall be known and called, and shall exist as a corporation.

SEC. 2. *Be it further enacted,* That the president, acting trustees of the Society Hill High School, and their successors in office, elected in accordance with article 2, section 11, of the revised school law of the State of Alabama, shall have a general supervision over the said school, they shall have power to contract for the services of teachers, to receive, by gift or otherwise, money or property to the value of five thousand dollars, for the benefit of said Society Hill High School, the title to which shall vest in them as trustees, and not otherwise, and shall pass to their successors.

Teacher.

SEC. 3. *Be it further enacted,* That the sale of brandy, rum, whiskey, gin, wine, and all other intoxicating drinks whatever, is hereby prohibited within the distance of three miles in every direction from the academy in the town of Society Hill, the same shall not be sold within the above specified limits, either by retail or wholesale, or for any purpose, and for every violation of the provisions of this

Liquor.

act, the person so violating it shall be subject to indictment, and upon conviction shall be fined not less than five hundred dollars nor more than one thousand dollars.

SEC. 4. *Be it further enacted*, That every attempt to evade the provisions of the third section of this act, by giving or offering to give away intoxicating drinks with the understanding, expressed or implied, that some remuneration is to be received in something, at that or some future time, shall be deemed and held a violation of said third section, and every person so offending shall be subject to indictment, and on conviction the same penalty as imposed in said section three (3).

SEC. 5. *Be it further enacted*, That should any person violate the third section of this act, from whom the fine specified cannot be recovered by due process of law, the person or persons so violating said section shall be imprisoned in the county jail for the term of not less than three months, and not more than twelve months, for each violation.

SEC. 6. *And be it further enacted*, That it shall be competent for any subsequent General Assembly of this State to repeal any provision of this act, upon the petition of a majority of the citizens residing within three miles of the school hereby authorized and established.

APPROVED, January 14, 1858.

[No. 111.]

AN ACT

To incorporate the Alabama Central Female College, in the city of Tuscaloosa.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That a college of the highest grade for the education of young ladies be, and the same is hereby established in the city of Tuscaloosa, to be known as "the Alabama Central Female College."

SEC. 2. *Be it further enacted*, That Rev. Basil Manley, Sr., Rev. A. J. Battle, Rev. J. H. Foster, Ed. Prince, Jr., Dr. S. J. Eddins, T. A. Burgin, Dr. Jas. Guild, Sr., C. A. Hester, P. H. Eddins, Leo. B. Neal, W. Moody, N. L. Whitfield, and their successors in office, be, and the same

are hereby constituted a body politic and corporate, by the name and style of the "Trustees of the Alabama Central Female College," with the right and power of exercising, all and singular, the privileges, incidents and capacities of corporations aggregate, to sue and be sued, implead and be impleaded, grant or receive, contract or be contracted with, and do and perform all other and proper and necessary acts and things, as natural persons, to purchase and hold lands or other real estate, and personal property, for the use and benefit of said college, that may have and use a seal, with such device or devices as they may deem proper, and change the same at pleasure; *Provided*, That in making titles to real property, under order of the board of trustees, the same shall be signed by the president and countersigned by the secretary.

Officers. SEC. 3. *Be it further enacted*, That the board of trustees shall have power to elect from their own body, a president, vice-president, treasurer and secretary, and such other officers as they may deem necessary to a proper organization and management of the trust herein confided, and assign to each their respective duties. They shall also have power to fill all vacancies which may occur in the board, by death, resignation or otherwise.

Salaries. SEC. 4. *Be it further enacted*, That said board shall further have power to elect a president, vice-president, professors and other officers of said college, as they may think proper, and fix their salaries, with such powers and duties severally and collectively, as the board may prescribe or allow, and who shall constitute the faculty of said college, and who may instruct in any department of science, literature, or art; grant diplomas, and confer all the degrees of literary distinction usual in the highest female institutions in the United States; that said trustees shall also have power to form and adopt a code of by-laws for their own government and for the government of the college, and to alter or amend the same at pleasure; *Provide*, The same be not inconsistent with the constitution of the State of Alabama, and five of said board of trustees shall be a quorum to do business, but they shall not, at any meeting, make any contract incurring any pecuniary liability, unless notice of such meeting has been given to three-fourths of the members of said board, at least three days previous thereto; although a majority of the whole board may, at any meeting, without such notice, create a debt, or incur a liability not exceeding the amounts of cash in hand and notes esteemed good then in their possession.

SEC. 5. *Be it further enacted* That said trustees may procure an endowment for said college or for any chair or chairs therein, the interest of which shall be alone expended; *Provided*, Said fund and interest shall be under the control and direction of the trustees.

SEC. 6. *Be it further enacted*, That no misnomer nor misdescription of said corporation herein created in any will, deed, gift, grant, devise, or other instrument of contract or conveyance, shall in anywise defeat or vitiate the same, but the same shall take effect in like manner as if said corporation were rightly named; *Provided*, It be sufficiently described to ascertain the intentions of the party or parties to such an instrument.

SEC. 7. *Be it further enacted*, That the said corporation may acquire and be possessed of property, real and personal, not to exceed in value the sum of three hundred thousand dollars, and the college grounds with the improvements thereupon, with all the property and estate, real and personal, held and owned by said corporation under this act, shall be free and exempt from taxation, whether the same be for State, county or municipal purposes.

Property.

SEC. 8. *And be it further enacted*, That the term of office of each board of trustees shall be two years, at the expiration of which a new election shall be held by any number of the stockholders, who shall meet regularly for this purpose; *Provided*, The said stockholders shall represent not less than one-fourth of the whole amount of stock subscribed to said institution, and each board shall continue in office until their successors shall be duly appointed and be prepared to enter upon their duties, and two-thirds of the board of trustees shall be members of the Baptist denomination.

Term of office.

APPROVED, December 19, 1857.

[No. 112.]

AN ACT

To incorporate the Lawrenceville Male and Female Academy in Henry county, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That there shall be established at Lawrenceville, in Henry county, an academy to be known and styled as the

Body corporate.

Lawrenceville Male and Female Academy, and John Jones, James J. Edwards, Joseph Lawrence, Alexander Cassady, Dr. O. B. Bowers, Dr. William B. Thomason, and Isaac F. Culver, and their successors in office, be, and they are hereby declared a body corporate by the name and style of the Trustees of the Lawrenceville Male and Female Academy, as such shall be capable and liable in law to sue and be sued, to plead and be impleaded, and shall be authorized to make such by-laws, and regulations as shall be necessary for the good government of said academy; *Provided, however,* That such by-laws and regulations are not repugnant to the constitution of the United States or the constitution and laws of this State, and for this purpose may have and use a common seal, and appoint such officers and teachers as they may think proper, and change or remove the same for improper conduct or neglect of duty.

Vacancy.

SEC. 2. *Be it further enacted,* That when a vacancy shall occur in the board of trustees in any manner, the remainder of the trustees shall have the power to fill the same in such manner as shall be prescribed by the laws of said corporation.

Liquor.

SEC. 3. *Be it further enacted,* That from and after the passage of this act it shall not be lawful for any person or persons to retail or vend any spirituous or intoxicating liquors, in or at any point within one mile or less of said academy, except for medical purposes, and any person or persons so offending the provisions of this section, shall be deemed guilty of a misdemeanor, and on conviction by indictment in the circuit court, be fined in a sum not less than two hundred nor more than five hundred dollars, at the discretion of the jury trying the same, to be paid into the county treasury, and that the provisions of this section shall be extended to the Gadsden Male and Female Academy at Gadsden, in Cherokee county.

SEC. 4. *Be it further enacted,* That every attempt to evade the provisions of the third section of this act, by giving or offering to give away intoxicating drinks with the understanding, expressed or implied, that some remuneration is to be received in something, at that or some future time, shall be deemed and held a violation of said section, and every person so offending shall be subject to indictment, and on conviction, the same penalty as imposed in section three.

APPROVED, January 22, 1858.

[No. 113.]

AN ACT

To incorporate the Trustees of the Synod of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That William B. Bell, John W. Lapsley, and James Hair, and their successors in office, to be chosen or appointed as hereinafter provided, be, and they are hereby constituted a body corporate and politic, under the name and style of the "Trustees of the Synod of Alabama," and by that name shall have continual succession, and may sue and be sued, contract and be contracted with, and have and use a common seal, and may own and hold by gift, devise, bequest or purchase, real and personal estate, moneys and choses in actions, to the value of not exceeding one hundred thousand dollars, and the same may sell, convey and re-invest.*

Body corporate.

SEC. 2. *Be it further enacted,* That the trustees named in the first section of this act, and their successors in office, shall hold their office at the pleasure of the Synod of the Presbyterian church of Alabama, and they and their successors in office, shall be subject to and governed by such rules or regulations and by-laws as may from time to time be prescribed or adopted for their government by the synod of the Presbyterian church of Alabama, commonly called the "Old School Presbyterian Church." The said synod shall have power to enact and establish, and repeal and alter at pleasure, all such rules, regulations or by-laws as they may deem proper for the government of said corporation, and the management of its affairs; *Provided,* That such rules, regulations or by-laws be not inconsistent with the purposes of said corporation, nor contrary to the constitution or laws of this State, or the United States.

Government.

SEC. 3. *Be it further enacted,* That said synod shall have power to appoint such officers of said corporation as said synod may deem necessary and proper, and prescribe the duties of such officer or officers, and may also prescribe the tenure of office of the trustees aforesaid and their successors, and may elect or appoint trustees of said corporation annually, or at such other periods as the said synod may, by resolution, ordain or determine, and may fill all vacancies which may occur in the board of trustees, or provide the mode of filling such vacancies, and said synod shall have power at pleasure to increase or reduce the number of the trustees. The charter granted by this act shall not fail or

Officers.

be forfeited by the failure or refusal of any person or persons to act as trustees, or by failure to elect or appoint trustees at the times or periods which may be prescribed for that purpose.

APPROVED, January 26, 1858.

[No. 114.]

AN ACT

To incorporate the North Alabama Agricultural and Mechanical Association.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Thomas Fearn, Lawrence S. Banks, Porter Bibb, Henry Fennell, Nelson Fennell, Owen O. Nelson, James Jackson, Robert Fearn, William R. Larkin, A. S. Harris, and their associates, are hereby constituted a body corporate by the name of the "North Alabama Agricultural and Mechanical Association," and by that name may sue and be sued, in any court of law or equity of this State, may have and use a common seal, may adopt such a constitution and by-laws as the society may deem proper to promote the interest and prosperity of the same, and may further do all things not contrary to law, which may be necessary and proper to accomplish the objects of the association.

Body corporate.

SEC. 2. *Be it further enacted,* That the said association is authorized and empowered to own and possess in its corporate capacity and name, real and personal property to the value of five thousand dollars, and to improve the same in such a way as will best suit the interest and convenience of the association.

■ property.

APPROVED, January 20, 1858.

[No. 115.]

AN ACT

To incorporate the State Mutual Insurance company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That William F. Cleaveland, Jones M. Withers, Charles P. Gage, John B. Todd, Newton St. John, Alexander McKinstry, Albert M. Quigley, John A. Hitchcock, Thomas St. John, William Jones, jr., Theophilus L. Toulmin, Thadeus Sanford, Duke W. Goodman, Henry L. Levert, Cade M. Godbold, Walter Smith, Hamilton Ballentyne, George G. Gazzam, John T. Taylor, and John James Walker, or such of them as shall become subscribers hereto, and their successors, and such persons as may subscribe in the place of any of them be, and they are hereby created and organized as a body corporate, to be known by the name of "The State Mutual Insurance Company," with power to insure persons and property upon the mutual plan, or any other: *Provided*, that said company shall not insure upon any other than the mutual plan until its paid in capital shall amount to one hundred thousand dollars. Body corporate.

SEC. 2. *Be it further enacted,* That for the purpose of security to the insured, and all persons dealing with said company from any loss thereby, each subscriber shall pay in, at the time of subscribing, the sum of one hundred dollars as common stock, and shall continue to add to said common stock by the payment of one hundred dollars annually—that is to say, fifty dollars to be paid by each member of the company on the first Mondays of January and July in each year, until the sum paid in by the company shall amount in the aggregate to at least the sum of one hundred thousand dollars. The capital of said company shall be held as common stock, and in equal proportions by the members of said company. Subscription.

SEC. 3. *Be it further enacted,* That the said corporators, or such of them as shall subscribe and be organized under this act, and their successors aforesaid, shall have and enjoy all the powers and privileges heretofore granted by an act approved January 22, 1856, entitled "an act to incorporate the Gainesville Insurance Company." The corporators in this act named shall constitute the board of directors until said subscribers shall elect a directory. The board of directors shall be composed of such number, and may be elected for such term as may be prescribed by said subscribers. Organized.

SEC. 4. *Be it further enacted,* That the directors of the

company organized by this act shall have authority to buy, in the name and for the use of the company, real estate sufficient for its business purposes, and to acquire in the same manner, other realty by way of security for, or in payment of what may be due it at any time; to determine the locations of its offices, the plans of its business, and the management thereof; the disposition to be made of any of its stock, and also all matters relating to the transfer thereof, and to direct and control the business and affairs of the company generally. The directory may require the stockholders to make additional payments into the common stock of the company aforesaid. Such requisition for additional payments must not exceed the sum of three thousand dollars from each stockholder during the first year. After the first year, no requisition for such additional payments must exceed the sum of one hundred dollars from each member during any one year, unless the excess over one hundred dollars shall be sanctioned by a unanimous vote of the company. All sums required to be paid into the company, whether under this or any other section of this act, must be paid by the respective stockholders in equal proportions, and at such time or times, and under such forfeitures and penalties for any failure to comply as may be prescribed by the directory.

Certificates.

SEC. 5. *Be it further enacted*, That nothing in this act contained shall authorize said company to issue any certificates or other paper, or instrument to circulate as money; and if any such shall be issued by said company, all the privileges and franchises conferred by this act shall be forfeited.

Condition.

SEC. 6. *Be it further enacted*, That the president and secretary of said company must on the second Monday of January in each year make out, under oath, a statement of the condition of said company, showing the amount and character of its assets, and also of its liabilities on the first day of January in the same year, and shall publish such statement so verified in some newspaper published in the city of Mobile, and in every county where an agency may be established under this act, and upon failing to comply with the provisions of this section, the charter of said company shall be forfeited.

Ten years.

SEC. 7. *Be it further enacted*, That the corporate rights and franchises by this act conferred shall cease and determine at the expiration of ten years from the passage of this act.

SEC. 8. *Be it further enacted*, That all public laws now in force, or which may hereafter be passed, prohibiting or reg-

ulating agencies for foreign banks, or in relation to the circulation of the issues of foreign banks or companies as money, shall operate upon and apply to the corporation hereby created, and that said insurance company shall not act as the agent of any bank or other company incorporated by or located in another State, in carrying on the business of banking in this State, and shall not borrow or obtain from any such bank or company any bank notes, money, or credits, and use the same in this State, in lending out the same, or in discounting notes, or dealing in exchange. Agent

APPROVED, Eebruary 6, 1858.

[No. 116.]

AN ACT

To extend the time for opening the books of subscription of the Wetumpka Insurance company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of the third section of an act approved January 19, 1856, "to incorporate the Tuskegee Insuarnee company," as requires the books of subscription to be opened on the first day of July next, so far as the same is applicable to the act "to incorporate the Wetumpka Insurance company," be so construed as to extend the time to the first day of July, 1858, and that said Wetumpka Insurance company shall be and it is hereby authorized to open books of subscription at any time prior to the first day of July in the year 1858.

APPROVED, February 8, 1858.

[No. 117.]

AN ACT

To authorize the Mobile Marine Railway and Insurance company and City Insurance company to consolidate their capital stocks.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the board of directors of the Mobile Marine Railway and Insurance company shall, and hereby have power to call a meeting of the stockholders of said company at such time as they may see proper, to consider and determine whether the capital stock of said company shall be reduced to the true amount of the capital of the company existing and remaining at said time, or whether the losses of capital by said company shall be supplied as hereinafter provided.

Stock.

Published.

SEC. 2. *Be it further enacted,* That the said call shall be published at least thirty days by consecutive insertions in at least two daily newspapers published in the city of Mobile, which notice shall contain information of the time and place of the meeting, and that its object is to consider the propriety of reducing the capital stock of said company to its actual amount, or of increasing the same to an amount not exceeding its present nominal capital of two hundred thousand dollars.

Reduce.

SEC. 3. *Be it further enacted,* That the stockholders as assembled shall be authorized to examine the affairs of said company, and to ascertain and determine the then actual remaining capital thereof, and if they see proper, to reduce the nominal capital of said company and the shares of the stockholders to amounts corresponding with such actual remaining capital.

Increase.

SEC. 4. *Be it further enacted,* That said stockholders so assembled, shall have power to increase the capital stock remaining, and ascertained as aforesaid, to such sum as they may deem proper, not exceeding two hundred thousand dollars.

Proviso.

SEC. 5. *Be it further enacted,* That should said stock be increased, the then existing stockholders shall have the right of taking the same in pro rata proportions, they subscribing for and paying in the new stock subscribed at such time and in such mode as the president and directors of the company shall prescribe: *Provided,* that the before mentioned preference shall only extend to the right in existing stockholders at said time, of increasing in a pro rata with other then existing stockholders, their stock to be the same actu-

al amount which they respectively before nominally held.

SEC. 6. *Be it further enacted*, That should said stock be increased as aforesaid, and should any then existing stockholder refuse to increase his stock as before provided, or should he refuse to increase it to the full amount authorized, or should he for sixty days neglect so to do, then the books of the company shall be opened, at the office of the company, in the city of Mobile, for subscription to the new stock not taken, under the direction of the president and directors of said company, and shall remain open for sixty days, unless said stock be sooner taken.

SEC. 7. *Be it further enacted*, That whenever the new stock authorized by this act shall be taken, the books of subscription shall be closed; should the whole of said new stock not be subscribed at the expiration of sixty days from the opening of the books as aforesaid, then the books shall be closed, and the actual stock of the company shall be such as may be found by adding the actual old capital to the new subscription, which amount, in such event, shall be entered on the books of the company by the president and directors, and shall constitute the capital stock of the company. Sixty days.

SEC. 8. *Be it further enacted*, That upon the determination of said stockholders to reduce, or to increase the capital of the company, as before provided, the president and directors of said company shall call in its old issues of stock, and shall re-issue certificates of stock to the stockholders respectively, in amounts corresponding with the actual value of the stock found and determined on as aforesaid, and in the event of an increase of the capital as before authorized, said president and directors shall in like manner issue certificates to those entitled to the same.

SEC. 9. *Be it further enacted*, That in determining any of the matters which, by this act, may be determined by the votes of the stockholders, in convention, each stockholder may vote in person, or by proxy, and each one shall be entitled to one vote for every share, and a majority of all the votes cast shall decide the question voted on.

SEC. 10. *Be it further enacted*, That the president and directors of said company shall have power to make such by-laws and other regulations, not inconsistent with this act, nor the company's act of incorporation, nor with the laws of the State of Alabama, as shall to them seem proper and necessary for the accomplishment of the purposes and objects of this act.

SEC. 11. *Be it further enacted*, That nothing in this act, or any proceeding which may be had under it, shall be con-

strued, or taken, to impair any of the corporate rights or powers of said company now existing, but the same shall be construed and taken to be simply an act to enable said company the better to exercise its corporate power, by ascertaining and reducing its stock, or by ascertaining and restoring the loss of its capital, as herein provided.

Apply to.

SEC. 12. *Be it further enacted*, That all and singular the provisions of the foregoing act shall apply to the City Insurance company, of Mobile, and that the president and directors and stockholders of said City Insurance company be authorized and empowered to do and perform all and singular the acts, matters, and things in regard to said last named company, *mutatis mutandis*, that the said Mobile Marine Railway and Insurance company is authorized to do by this act. And said City Insurance company may consolidate the stock of said company under the same provisions, rules, and restrictions as are by this act prescribed for said Mobile Marine Railway and Insurance company, and not otherwise.

APPROVED, January 12, 1858.

[No. 118.]

AN ACT

To amend an act incorporating the Selma Insurance company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the act entitled "an act to incorporate the Selma Insurance and Trust company," approved February 10th, 1854, under which a company has been formed and organized, be, and the same is by this act amended as follows, that is to say, by adding to the fifteenth section of said act, at the conclusion of said section, these words, *to wit*: "and any stockholder who may be garnisheed as herein provided, and against whom a judgment may be rendered in such garnishment suit, shall, upon the payment of such judgement, be entitled to sue said company at law for the amount so paid, including costs of suit, with interest thereon, and shall have all the remedies to collect the same from said company to which any other creditor would be entitled;" and said act, so amended, shall remain and continue in full force.

APPROVED, January 28, 1858.

[No. 119.]

AN ACT

To amend an act to incorporate the Elba Insurance company, of Coffee county, approved February 7, 1856.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That a majority of the persons named in the act entitled "an act to incorporate the Elba Insurance company, of Coffee county," shall have full power and authority to locate their office and carry on the business allowed by their charter, at Geneva, in said county.

SEC. 2. *And be it further enacted,* That said company may at any time before the first day of July next determine upon their location, and the commencement of the business and privileges allowed to and conferred upon them as a body politic and corporate by their said act of incorporation, without any other change or modification, except as to their place of business and time of commencement.

APPROVED, January 25, 1858.

[No. 120.]

AN ACT

To incorporate the Alabama Fire and Marine Insurance company of Montgomery.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That T. H. Watts, H. W. Watson, J. H. Cogburn, Albert Williams, and Josiah Morris, and their associates be, and they are hereby constituted a body corporate, under the name and style of the "Alabama Fire and Marine Insurance company of Montgomery," the amount of the capital stock thereof to be not less than fifty nor more than two hundred thousand dollars, and to be divided into shares of one hundred dollars each. Stock.

SEC. 2. *Be it further enacted,* That notice shall be given for two successive weeks, by advertisement published in two of the newspapers of Montgomery county, of the time and place, when and where, subscriptions will be received for stock in said company. Said subscription shall be opened under the inspection and control of T. H. Watts, H. W. Notice.

Directors.

Watson and Albert Williams; and the sum of twenty dollars shall be paid in at the time of subscription, and the remainder be secured to be paid, and be paid at such time and in such manner as the board of directors, after their election, shall determine; the books to remain open for subscription for five days, and no person shall be allowed to subscribe more than one hundred shares in one day; and when the sum of fifty thousand dollars shall be subscribed, the company shall be organized to commence business.

Hold office.

SEC. 3. *Be it further enacted*, That a board of directors, to consist of four persons, owners of stock to the amount of two thousand dollars, who shall hold their office for one year, shall be elected by ballot by the stockholders voting in person, or by proxy, after notice by advertisement for two successive weeks in two of the newspapers of Montgomery county, stating the time and place of holding the election; the first election to be held under the inspection of T. H. Watts, H. W. Watson and Albert Williams, and subsequent elections to be held under the inspection of three persons to be appointed prior thereto by the board of directors; the stockholders at all elections and at all meetings for the transaction of business to be entitled to vote for each and every share of capital stock they may own.

Open books.

SEC. 4. *Be it further enacted*, That, provided stock is not taken to the amount of two hundred thousand dollars within five days appointed for the receipt of subscriptions, the board of directors may open books from time to time at their discretion for the receipt of further subscriptions to the capital stock upon such terms as they shall prescribe.

Insurance.

SEC. 5. *Be it further enacted*, That the said corporation shall have power and be authorized to make general insurance upon houses, stables, gin-houses, cotton, corn and other produce; upon lives and health, both of white persons and of slaves; upon stock of every description; upon vessels, boats, freights, money, goods, wares and merchandise, and any other species of property, against loss in any manner, by fire, dangers of the sea, rivers, or otherwise, at such rate of premium as they may agree, and to transact all such matters as appertain to an insurance company.

SEC. 6. *Be it further enacted*, That the said company shall be authorized to loan its money and funds, from whatever source derived, at interest; to invest the same in real or personal securities by discounting, and deal with the same in the purchase and sale of domestic and foreign exchange.

SEC. 7. *Be it further enacted*, That any stock in said com-

pany, owned by persons indebted to said company, whether as principal, or surety for others, or whether said indebtedness be due, or has not yet matured, shall be held as security for such indebtedness until said indebtedness is discharged; and in case of failure of payment of said indebtedness, within thirty days after maturity of the same, the directors shall have power to sell said stock, or as much as will satisfy said indebtedness, first advertising the same in any newspaper published in Montgomery county for ten days prior to the sale, and without further notice to the owner thereof.

SEC. 8. *Be it further enacted*, That said company shall be authorized to receive in trust, or on deposit, all funds, or moneys, that may be offered to them, on interest, or otherwise; and that they have power to give acknowledgments for deposits in such manner and form as they may deem convenient and necessary to transact such business, all such moneys so deposited being free from loss and indebtedness growing out of the insurance business of said company.

SEC. 9. *Be it further enacted*, That the said company be authorized, at the discretion of the board of directors, to open offices, or establish agencies, at other places than in the city of Montgomery: *Provided*, Such agencies be limited to a strictly fire, or marine, insurance business.

SEC. 10. *Be it further enacted*, That if within sixty days after the election of a board of directors, the subscribers for stock shall not pay, or secure the payment, of the balance due upon the stock subscribed for by them, in manner and form as required by the regulations to be adopted, the first payment and the stock subscribed for shall be forfeited.

SEC. 11. *Be it further enacted*, That said corporation shall keep a book for the transfer of shares of its capital stock, and the names of all owners of capital stock shall appear therein, and all transfers shall be made under such rules and regulations as the board of directors may prescribe, and the shares be considered as personal property, and be liable to attachment and sale under execution.

SEC. 12. *Be it further enacted*, That the stockholders shall be responsible for the amount of their stock, and no more.

SEC. 13. *Be it further enacted*, That nothing in this act shall be so construed as to authorize said corporation to make any notes to circulate as bank notes, or to issue any sureties to be circulated in the community as money.

SEC. 14. *Be it further enacted*, That the directors of said corporation shall have power to make such by-laws as they may think proper, not inconsistent with the constitution

Bond.

and laws of this State, and may select such officers for the management and control of the corporation, and prescribe the term of office as they may deem necessary, and may require of all or any of such officers bond and security for the faithful discharge of duty, and may make such compensation to such officers as they may prescribe.

Agency.

SEC. 15. *Be it further enacted*, That all public laws now in force, or which may hereafter be passed, prohibiting or regulating agencies for foreign banks, or in relation to the circulation of the issues of foreign banks, or companies, as money, shall operate upon, and apply to, the corporation hereby created, and that the corporate rights and franchises by this act conferred, shall cease and determine at the expiration of ten years: *Provided*, That said insurance company shall not act as the agent of any bank, or other company, incorporated by, or located in another State, in carrying on the business of banking in this State; and shall not borrow, or obtain from any such bank, or company, any bank notes, money, or credits, and use the same in this State in lending out the same, or in discounting notes, or dealing in exchange.

Statement.

SEC. 16. *Be it further enacted*, That the president, or secretary of said company must, on the second Monday in January in each year, make out, under oath, a statement of the condition of said company, showing the amount and character of assets, also the amount and character of liabilities on the first day of January in the same year, and shall publish such statement, so verified, in some newspaper published in said county of Montgomery, and in every county where agencies are established under this act, or nearest thereto, if there is none published in said county; and upon failing to comply with the provisions of this section, the charter of said company shall be forfeited: *Provided*, That the General Assembly may, at any time, alter or repeal this charter.

APPROVED, February 8, 1858.

[No. 121.]

AN ACT

To charter the Alabama Insurance Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Lovick P. Butler, Henry Holmes, Willis R. Calloway, William R. Westcott, and Smith Cullum, and such others as may be associated with them for that purpose, and their successors, are hereby created a body politic and corporate, by the name of "The Alabama Insurance Company," and by that name shall be capable of suing and being sued in all the courts of this State; of purchasing, holding and conveying property of all descriptions; to make, have and use a common seal, and the same to alter and renew at pleasure, and generally to do any act necessary to carry into effect the objects of the corporation, not inconsistent with the laws and constitution of this State, or of the United States.

SEC. 2. *Be it further enacted,* That the capital stock of this corporation shall be one hundred thousand dollars, to be divided into shares of one hundred dollars each, and the same to be paid in the manner following: ten dollars on each share at the time of subscription, and the residue when the president and directors of the corporation may direct, which capital stock may hereafter be increased to any amount not exceeding three hundred thousand dollars, in such manner as the president and directors may determine; the said stock shall be deemed and held as personal property, and if any stockholder shall neglect and refuse to make the payments as required, his stock may be sold by order of the president and directors, and such stockholder shall be liable for the balance due by him as stockholder to the corporation as it becomes due, and may be sued in the circuit court of Montgomery county for the same. Stock.

SEC. 3. *Be it further enacted,* That the books of subscription shall be opened at any time prior to the first day of May next, at such place in the city of Montgomery as a majority of the persons named in the first section of this act may direct; advertisement of the time and place of opening such books to be made for one week in a newspaper published in Montgomery, which books shall be kept open until the said sum of one hundred thousand dollars shall be subscribed for; and the said persons, or a majority of them shall, as soon as may be after the books for subscription are closed, call a meeting of the stockholders, who Books open.

Officers.

shall proceed to the election of not less than five, nor more than nine directors, as may be determined by them; and the said directors shall elect one of their own number president, and the said president and directors elected in pursuance of this act, shall have full power and authority to appoint and remove at pleasure all officers and agents of said corporation, to fix their compensation, prescribe their duties, provide for the taking bonds from them for the security of the corporation for the faithful performance of their duties; and they shall also have the power to fill any vacancy which may occur in their own body, and also to appoint a president *pro tempore* when the president may be absent from their meeting; and if the president or any director shall be absent, without leave, for five successive regular meetings of the board, a majority of the same may declare his place vacant, and proceed to fill it without notice to such absent president or director.

Election.

SEC. 4. *Be it further enacted*, That the directors of the corporation shall be elected by the stockholders, and the president by the directors from among their own number, and when elected, they shall hold their offices for one year, or until their successors are elected; and it shall be the duty of the president and directors to call an annual meeting of the stockholders to make such election; and in all meetings of the stockholders, those holding a majority of the stock shall constitute a quorum, and such stockholders shall be allowed one vote for each share of stock he holds, and the stock may be represented either in person by the stockholder, or by proxy, and the power to vote for absent stockholders may be constituted by any written expression of the stockholder so appointing a proxy to vote for him: *Provided*, That no one, not himself a stockholder, shall be capable of acting as proxy for another.

Insurance.

SEC. 5. *Be it further enacted*, That said corporation shall have full power to make insurance upon ships and other sea vessels, and upon steamboats and all other river boats and craft of every kind, and on all goods, wares and merchandise, slaves, bullion money and other property; against all maritime or river risks, and upon houses, stores and other buildings, goods, wares and merchandise of every description, against fire, and to fix a premium thereon; to receive from any free person, or persons, deposits on trust, and to accept all such trusts as may be confided to it; to borrow money and issue its bonds therefor; it may loan its money, or other property, to any person, or on any security, which it may think proper: *Provided*, That nothing in this

act shall be so construed as to authorize said corporation to make any notes to circulate as bank notes, or to issue any securities to be circulated in the community as money: *And provided also*, That the laws against usury apply to this corporation.

SEC. 6. *Be it further enacted*, That the president and directors of said corporation shall have power to fix the place and mode of transfer of certificates of stock, as well as the payment of interest and dividends; that a majority of the president and directors shall constitute a quorum, and that said president and directors shall also have power to pass all such by-laws as may be necessary to carry this act into effect, and to execute and authorize the execution of all such bargains and contracts as may seem to them best for the interests of the corporation. Certificates.

SEC. 7. *Be it further enacted*, That said corporation shall be responsible to its creditors to the extent of its property, and the stockholders to the extent of the amount of their respective stock not paid up.

SEC. 8. *Be it further enacted*, That this charter and all the privileges and powers herein granted, shall continue in force for the full term of ten years from the subscription of the stock; and that the property, funds and business transactions of the corporation shall be subject to the same rate of taxation imposed by law on the property and similar business transactions of other insurance companies chartered by this State. Ten years.

SEC. 9. *And be it further enacted*, That all bonds, bills and promissory notes, made payable at the office of the Alabama Insurance Company, shall have the same legal effect and be subject to the same legal remedies as if the same were made payable in or at a bank, or banks, of this State.

SEC. 10. *Be it further enacted*, That all public laws now in force, or which may hereafter be passed, prohibiting or regulating agencies for foreign banks, or in relation to the circulation of the issues of foreign banks, or companies, as money, shall operate upon, and apply to, the corporation hereby created; and that said insurance company shall not act as the agent of any bank, or other company, incorporated by, or located in another State, in carrying on the business of banking in this State, and shall not borrow, or obtain from any such bank, or company, any bank notes, money, or credits, and use the same in this State in lending out the same, or discounting notes, or in dealing in exchange. Agencies.

SEC. 11. *Be it further enacted*, That the president, or sec-

retary of said company hereby incorporated, must, on the second Monday of January in each year, make out, under oath, a statement of the condition of said company, showing the amount and character of its assets, and also of its liabilities on the first day of January in the same year, and shall publish such statement, so verified, in some newspaper of general circulation, published in the city of Montgomery, and upon failing to comply herewith, the charter of said company shall be, and the same is hereby forfeited.

APPROVED, February 8, 1858.

[No. 122.]

AN ACT

To incorporate the Southern Insurance Company of Mobile.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall be established in the city of Mobile a company for the purpose of carrying on the business of marine and river insurance, which company shall be called and known by the name of the "Southern Insurance Company of Mobile," and all such persons as shall be stockholders of said company, and their successors, shall and may have continual succession, and shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, in all manners of actions, suits, complaints, matters and causes whatever; and they and their successors may have a common seal and may change and alter the same at pleasure, and also, they and their successors, by the name, style and title of the "Southern Insurance Company of Mobile," shall be in law capable of purchasing, holding and conveying all kinds of estate whatever, real or personal, for the use of said corporation, subject to the restrictions hereinafter mentioned; that the capital stock of said corporation shall be two hundred thousand dollars, with the privilege of increasing the same to five hundred thousand dollars whenever the board of directors deem it expedient, divided into shares of fifty dollars each, five dollars on each share to be paid at the time of subscribing, and the remainder by such installments as the directors shall appoint; *Provided, however, That the*

first board of directors, to be chosen as hereinafter directed, shall within one month after their appointment, take good and satisfactory security to consist either of bank or other stock at two thirds of the value thereof in the market, or deeds of trust on real estate within the city of Mobile, at not exceeding two-thirds of its cash value, exclusive of buildings, unless the same be insured, for the payment of the said remaining amount of stock unpaid at the time of subscribing aforesaid, whenever it shall be deemed expedient to call for the same, or satisfactory notes for the balance.

SEC. 2. *And be it further enacted*, That it shall be lawful for the president and directors of said company, or a majority of them, to alter and change the securities as aforesaid, from time to time, for securities of the same nature as they may deem expedient. Securities.

SEC. 3. *And be it further enacted*, That subscriptions shall be opened in the city of Mobile, for the said shares, on the third Monday in March next, (1858,) under the superintendence of Wm. Jones, Jr., J. J. Walker, Jno. Reid, Jr., A. J. Ingersol, S. S. Webb, Rob. T. Dade, Jno. Scott, R. West, Z. C. Deas, or any three of them, which subscription shall continue open until one hundred thousand dollars be subscribed; but no share or shares shall entitle the holder to vote at any elections unless the same shall have been held *bona fide* by him or her at least fifteen days next immediately before such election. Subscription.

SEC. 4. *And be it further enacted*, That there shall be chosen five directors who shall hold their office for one year, and until their successors shall be duly qualified; which directors at the time of their election and during their continuance in office, shall be holders in their own right, of at least ten shares, and shall be elected annually after the first election, at the office of said company, or any other convenient place in the city of Mobile, and at such time of the day as the president of the company shall appoint, of which election notice shall be given in a newspaper published in the city of Mobile, at least seven days next before said election, and said election shall be by ballot, and in person or by proxy, and each stockholder shall be entitled for every five shares to one vote, and that if no election takes place on such a day, the president may order the same from time to time until an election be effected; *Provided*, The same be done within sixty days thereafter. Hold office.

SEC. 5. *And be it further enacted*, That directors of said company in the first instance, shall be chosen in the follow-

ing manner, viz: As soon as one hundred thousand dollars shall have been subscribed, the said Wm. Jones, Jr., J. J. Walker, Jno. Reid, Jr., A. J. Ingersol, S. S. Webb, Rob. T. Dade, Jno. Scott, R. Westfedt, and Z. C. Deas, before named, shall appoint a place in the city of Mobile for proceeding to the election of the said five directors, and shall give at least seven days notice of the same, in a newspaper printed in the said city; and it shall be lawful for said election to be then and there holden by the subscribing stockholders, by ballot, under the before mentioned persons, or a majority of them, and the persons then and there chosen shall be the first directors, and shall serve for one year, and until their successors shall be qualified, and that they shall meet as soon as convenient after the election, and choose out of their own body a president, who shall serve until another board by election be qualified, and in case of vacancy, the directors shall choose another of their body in like manner.

Power.

SEC. 6. *Be it further enacted*, That the directors, or a majority of them, shall have power to make, prescribe and alter such by-laws, rules and regulations as to them shall appear needful and proper for the management and disposition of its stock, property, estate and effects; *Provided*, they shall not be repugnant to the constitution and laws of this State.

Insurance.

SEC. 7. *Be it further enacted*, That the president and two directors, or three directors in the absence of the president, shall have full power and authority on behalf of the corporation, to make marine and river insurance upon vessels, cargoes, freights and moneys, and to fix premiums for the same, also to transact all such matters as appertain to a marine and river insurance company, and all policies by them made, subscribed by the president, or two directors, and countersigned by the secretary, shall be binding and obligatory upon the said corporation in like manner and with like force as if under the seal of said corporation.

SEC. 8. *And be it further enacted*, That said corporation shall not deal in any goods, wares, or merchandise whatever.

Sixty days.

SEC. 9. *And be it further enacted*, That no insurance shall be made until the securities provided for by this act, shall have been given, and if within sixty days after subscribing any stockholder shall neglect to furnish the said security for the stock remaining unpaid on each share, he shall forfeit his first payment.

SEC. 10. *And be it further enacted*, That all contracts for the payment of money by the said corporation shall be

under the seal of the same, and shall be taken to operate as specialties of law.

SEC. 11. *And be it further enacted*, That the Southern Insurance company of Mobile be, and is hereby authorized to lend its funds on any public stock of incorporated companies or upon States or that of the United States, or to invest the same in real or personal securities or in the purchase or sale of domestic or foreign exchange: *Provided*, that nothing in this act shall be construed so as to enable the said company to issue for circulation any notes or bills, in the nature of bank notes, or of any of the banks out of the State, or to issue any paper to be used as money.

Lend funds.

SEC. 12. *And be it further enacted*, That in case of vacancies occurring in the board of directors of said company, caused by resignation, absence or otherwise, it may be lawful for the remaining directors to fill such vacancies by electing any stockholder qualified according to the charter: *Provided*, That no vacancies can be declared to occur on account of absence, unless such absence extend beyond thirty days, without the sanction of the board of directors, having been first obtained, and that not less than four directors including the president, are present at any meeting to fill vacancies.

Vacancies.

SEC. 13. *And be it further enacted*, That any stock in said Southern Insurance company of Mobile owned by persons indebted to said company, whether as principal or security to others, and whether said indebtedness be due, or has not yet matured, shall at the option of the directors of said company, be held as security until said indebtedness is discharged; and in case of failure of payment of said indebtedness within thirty days after maturity of same, the directors shall have power to sell said stock, or as much thereof as will satisfy said indebtedness, by advertising the same for ten days in any newspaper published in the city of Mobile, and without any further notice to the owner thereof.

Securities.

SEC. 14. *And be it further enacted*, That the board of directors of said Southern Insurance company of Mobile, shall have power to regulate the number of their body necessary to transact the general business of the company.

Number.

SEC. 15. *And be it further enacted*, That all the rights, powers and privileges, by this act conferred shall cease, expire and determine, at the expiration of ten years from the passage of this act.

SEC. 16. *And be it further enacted*, That the president or secretary of said company hereby incorporated, must on

Statement.

the second Monday of January in each year, make out under oath, a statement of the condition of said company, showing the amount and character of its assets, and also of its liabilities on the first day of January in the same year, and shall publish such statement so verified in some newspaper of general circulation, published in the city of Mobile, and upon failing to comply with the provisions of this section, the charter of said company shall be, and is hereby forfeited.

Agencies.

SEC. 17. *And be it further enacted*, That all public laws now in force, or which may hereafter be passed, prohibiting or regulating agencies for foreign banks, or in relation to the circulation of the issues of foreign banks, or companies as money shall operate upon and apply to the corporation hereby created, and that said insurance company shall not act as the agent of any bank, or other company, incorporated by or located in another State, in carrying on the business of banking in this State, and shall not borrow or obtain from any such bank or company, any bank notes, money or credits, and use the same in this State in lending out the same, or in discounting notes or in dealing in exchange.

APPROVED, February 8, 1858.

[No. 123.]

AN ACT

To incorporate the Cahaba and Tuscaloosa Telegraph company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John P. Fulks and Joseph Babcock, and their associates and successors be, and they are hereby constituted a body corporate, by the name and style of the "Cahaba and Tuscaloosa Telegraph company," and as such they may sue and be sued, plead and be impleaded, in all the courts of law and equity; and they shall have power to use a corporate seal, and the same to alter or break at pleasure.

Communication.

SEC. 2. *And be it further enacted*, That said company are hereby authorized to establish a telegraph line of communication from Cahaba to Tuscaloosa; and they are authorized and empowered to plant the posts for said line and

put the wires thereon, along the sides of any of the public highways of this State; in such manner, however, as not to interfere with the public convenience in the use of said roads.

APPROVED, February 6, 1858.

[No. 124.]

AN ACT

To incorporate the Montgomery Typographical Union.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That James J. Thompson, John F. Whitfield, John Floyd, D. W. Brown, W. B. Hughes, Frank L. Smith, together with such other practical printers in Montgomery county as may associate with them, shall be, and they are hereby made a body corporate, under the name and style of the "Montgomery Typographical Union," and by such name may sue and be sued, plead and be impleaded.

SEC. 2. *Be it further enacted,* That the said Montgomery Typographical Union may adopt such by-laws, not inconsistent with the laws of this State, as they may deem proper, and may adopt and pursue such measures as may promote the interest of printers, and the art and mystery of printing. By-laws.

SEC. 3. *Be it further enacted,* That the said corporation may take and hold donations, bequests and devises made to the same, may collect fees and fines from its members, such as may be prescribed by the by-laws of the same, and enforce the payment thereof. Donations.

SEC. 4. *Be it further enacted,* That the said corporation may apply the funds they shall collect and receive as aforesaid, towards the promotion of the interest of their association, and of printers and printing generally, as well for the purpose of rendering assistance to their sick and indigent members, and towards the support of the widows and children of deceased members of their body, to which purposes above specified, shall be applied their surplus moneys under the direction of the officers and members of such association.

APPROVED, February 8, 1858.

[No. 125.]

AN ACT

To amend the charter of the Tuscaloosa Bidge company,
approved January 2, 1833.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the fourth section of the act to charter the Tuscaloosa Bridge company, approved January 2, 1833, be, and the same is, hereby so amended as to authorize the election of a less number of directors than seven, as required by said fourth section, and that so far as they conform to the laws of the State and the charter and by-laws of the company, the acts of any directory heretofore elected composed of a less number than seven, be, and same are hereby legalized.

SEC. 2. *Be it further enacted,* That the provisions of this act shall not be binding on the president and directors, or the stockholders of said company, until approved by a majority vote of the stockholders.

APPROVED, February 8, 1858.

[No. 126.]

AN ACT

To incorporate the Mechanics' Hook and Ladder company
of Montgomery.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the members, their associates and successors, of the Mechanics' Hook and Ladder company of the city of Montgomery, be, and they are hereby declared, and constituted a body corporate by the name and style of the "Mechanics' Hook and Ladder company No. 1," of the city of Montgomery, and by that name and style, may sue and be sued, may plead and be impleaded, answer and be answered, in any court of law or equity, and may have and use a common seal, and the same alter and amend at pleasure, and may have and hold real and personal property, to the amount of ten thousand dollars, and may sell and transfer the same at pleasure. And the said company shall not at any time consist of more than sixty members.

SEC. 2. *Be it further enacted*, That the members of said company and body corporate, be, and they are hereby exempt from jury and military duty.

SEC. 3. *Be it further enacted*, That the members of said company, in consideration for six years service in said company, shall thereafter be exempt from militia duty if residing in the county of Montgomery. Six years.

SEC. 4. *Be it further enacted*, That the company may enact such rules and by-laws for its government as the members may think proper, provided they are not contrary to the constitution of the United States, or the State of Alabama, and may alter or change the same at pleasure. Rules.

SEC. 5. *Be it further enacted*, That said company shall not be allowed to exercise privileges not legitimately belonging to Hook and Ladder companies generally.

APPROVED, January 26, 1858.

[No. 127.]

AN ACT

To incorporate the Mobile Omnibus company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*. That Franklin G. Kimball, Israel J. Jones, Benjamin Williams, Charles LeBaron Collins, and their associates be, and they are hereby declared a body politic, and corporate, by the name and style of the Mobile Omnibus company, and by that name and style may sue and be sued, hold property real and personal, have a common seal, and establish by-laws for the government of said company, not inconsistent with this act and the laws of this State.

SEC. 2. *Be it further enacted*, That the capital stock of said company may consist of not less than fifteen hundred dollars, nor more than twenty thousand dollars, and said company may own real estate, not exceeding in value ten thousand dollars. The said stock shall be divided into shares of fifty dollars each, and may be transferable in such manner as the company by its laws may direct. Said stock shall be deemed and taken as personal property, said shareholders to be liable for the engagements of the company only to the amount of the stock they may respectively own. Stock.

SEC. 3. *Be it further enacted*, That the business of said

Hold office.

corporation, shall be managed by a committee of three stockholders, one of whom shall be president of the company, to be elected at such time and place as the company may by its by-laws direct. Said committee shall continue in office for the term of one year, from the date of their election, and till their successors are elected and qualified. Said committee shall have power to appoint such agents, employees and servants, as they may deem necessary. In addition to said committee the company may elect from their stockholders such officers, and on such terms as they see fit, consistent with this act, and the laws of this State.

Run and own.

SEC. 4. *Be it further enacted*, That said company shall have power to run and possess such carriages, vehicles, and omnibuses, as they see fit, together with the requisite number of draft animals, and is hereby authorized to engage in the business of the transportation of persons for hire, to and from any point in the corporate limits of the city of Mobile, that said company may see fit, and said company is hereby authorized to make contracts, and engagements, and do all things necessary to the profitable carrying on of the business authorized by this act.

SEC. 5. *Be it further enacted*, That said company shall not commence operations until there is at least one thousand dollars of the capital stock paid in in cash, and the balance thereof secured, and this act of incorporation shall only continue in force for ten years from and after its passage, unless hereafter extended.

APPROVED, January 26, 1858.

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[No. 128.]

AN ACT

To incorporate the Shelby Coal company.

Body corporate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That George D. Shortridge, Edward T. Watts, John W. Lapsley, Joseph R. John, Daniel W. Prentice, and Edward Gantt, and their immediate successors, and such other persons as may be hereafter associated with them, and their successors, be and they are hereby constituted a body corporate, by the name and style of the "Shelby Coal company," and by that name may hold, purchase, receive and

enjoy, to them and their successors, lands, tenements and hereditaments, rents, profits, goods and property of whatsoever kind, nature, quality and quantity, may be deemed necessary in the digging, mining, transporting and selling of coal; and may likewise sell, grant, devise or dispose of the same at their will; they shall also have power to sue, and may be sued, and to plead and be impleaded in all courts having jurisdiction; they may make a common seal, and alter the same at pleasure; they may elect such officers, enact such laws, and adopt such ordinances as may be necessary for the organization, the government and the successful operations of the company, not inconsistent with the laws of the land, and in general may have such powers, privileges and immunities as belong to like corporations.

SEC. 2. *Be it further enacted*, That the capital stock of said company shall be two hundred thousand dollars, with the privilege to increase the same to five hundred thousand dollars, and to this end and for the uniform and better regulation of the affairs of this company, they shall have the privilege of prescribing the number of shares into which the capital stock may be divided, the mode in which it shall be taken, paid, transferred or assigned, the manner by which the stockholders may cast their votes, and the number of votes to which each share shall be entitled. Stock.

SEC. 3. *Be it further enacted*, That said company are hereby authorized and empowered to locate, construct and bring into final completion, one or more railways, with single double or treble tracks, at their option, from their mines, in the Cahaba coal fields, to such depot or depots as they choose to establish, on or along the line of the Alabama and Tennessee River Railroad, or on or along the line of the Central Railroad, and to transport persons and property, minerals, and produce upon said railways, by the power of steam or any other motive or mechanical power which they may apply.

SEC. 4. *Be it further enacted*, That said company are hereby authorized to lay out their said railway or railways, not exceeding one hundred feet in width, through the whole length; to purchase the right of way, to obtain stone earth, gravel, timber or other material necessary to construct, or to make cuttings, throw up embankments, and build bridges; to establish platforms, warehouses, stations, turnouts, and depots, and to make any lawful contract in relation to the same or general business of the company, with any person or corporation. Right of way.

SEC. 5. *Be it further enacted*, That if the owner or own-

Damages.

ers of the land which may be required for the use and purposes mentioned in this act, in the preceeding sections, cannot agree on their value, or the damages, or in case such owner is an infant, non-resident, or *non compos mentis*, it shall be lawful for said company, acting through their agent or agents, to apply to the judge of probate of the county in which the lands are situated, for a writ of *ad quod damnum*, who shall issue the same to the sheriff of the county, commanding him to summon seven discreet and disinterested freeholders to view the premises, and assess the damages; and it shall be the duty of the said jury to appear at the time and place stated in the summons, to take an oath truly and impartially to try the question at issue, and render such verdict in damages for the land condemned as the testimony may warrant. The condemnation thus had shall vest the title in the company, in perpetuity, upon the payment of the amount assessed by the jury: *Provided*, That these proceedings shall be had only after notice to the adverse party, the manner of giving which, shall be determined by the judge of probate according to the circumstances of each particular case: *And provided further*, That nothing herein contained shall be construed to deprive either party who may be aggrieved, by the verdict of the jury, of the right of appeal or *certiorari* to the circuit court.

SEC. 6. *Be further enacted*, That during the pending of these proceedings requiring the action of the probate judge or the pending of any subsequent litigation arising therefrom, the company may proceed with their work, without hindrance or delay; it being the intention of this act that whilst every citizen shall be protected in his right, to demand and receive compensation for the injury he may sustain, yet a work of public importance is not to be obstructed in its progress to a rapid completion.

Fixtures.

SEC. 7. *And be it further enacted*, That said company are authorized, in addition to the regular depots contemplated in the foregoing sections, to establish depots and all necessary fixtures for the transaction of their business, in the cities of Selma, Montgomery and Mobile, and in the towns of Marion and Union Town, under like powers, rules and restrictions contained in sections five and six of this act.

APPROVED, February 8, 1858.

[No. 129.]

AN ACT

To incorporate the Shelby Lime company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Virgil H. Gardner, John W. Lapsley, Lemuel J. Hall and John R. Kenan, be and they are by this act made and constituted a body corporate and politic, for the purposes hereinafter specified, under the name of the "Shelby Lime company," and by that name the said persons together with their associates, if any, and successors, shall have continual succession as a corporation, and may sue and be sued, plead and be impleaded, contract and be contracted with, and may purchase, own and hold, such property, real and personal, as they may deem necessary and proper in and for their business; and sell, convey and alien the same at pleasure; and may make all such rules, by-laws and regulations as they may deem proper, for the carrying on and management of their business, not contrary to the constitution or laws of this State or the United States. Body corporate.

SEC. 2. *Be it further enacted,* That the business of said company as authorized by this act, shall be the manufacture, transportation and sale of lime, and if desired, lumber, and such articles of wood as the company may have or manufacture for sale.

SEC. 3. *Be it further enacted,* That the capital of said company may be fixed at such sum as the majority of the corporators may deem proper, to be divided into shares of such amount as the corporators may desire and determine, for which proper certificates may be issued, to be transferable in such manner, and on such conditions as the corporators by agreement among themselves, or by their by-laws may declare: *Provided,* That the stock of each member of the company or stockholder, shall be liable and subject to the company for any debt or liability of the owner of the stock to the company; and no transfer of stock shall have the effect to deprive the company of the lien hereby given on the stock of each and every stockholder as security for any debt or liability of the stockholders respectively to the company, existing at the time of the transfer. Capital

SEC. 4. *Be it further enacted,* That said corporators may put into the company as capital stock thereof, such property, real and personal, and at such valuation as may be agreed on and fixed by and between themselves.

Taxation.

SEC. 5. *Be it further enacted*, That all the property and effects of said company shall be liable and subject to such rates of taxation, and such only as may be levied upon similar property and effects of natural persons and citizens within this State.

Officers.

SEC. 6. *Be it further enacted*, That said company may appoint such officers in the management of their business as they may desire, and confer upon them such authority in and about the business of the company, as they may deem proper, and in all matters coming before the stockholders for action or decision, each stockholder shall be entitled to cast such number of votes as he may have shares of stock, allowing one vote for each share of stock.

APPROVED, February 2, 1858.

[No. 130.]

AN ACT

To incorporate the John M. Moore Copper Mining company.

Body corporate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John M. Moore, Francis M. Thomason, Wm. J. Taylor, Wm. A. Dury, John White, Wm. H. Moore, Jr., and J. A. Richardson, and their associates, be, and they are made and created a body incorporate and politic, by the name of the John M. Moore Copper Mining company, and said company by its corporate name aforesaid, shall be capable of suing and being sued, pleading and being impleaded, defending and being defended in all courts of law and equity, of contracting and being contracted with, and of purchasing, holding, owning, selling and conveying all property, real, personal and mixed, which it may receive in payment of debts, or for subscriptions of stock, or for the purpose of carrying on the business and accomplishing the objects of the corporation, and for the transportation, purchase and sale, refining and preparation for market, of copper and any other mineral and ores, and shall have the power of doing all things which may be necessary and proper in the business of mining, and of extracting copper and any other minerals and ores from the mines, refining and preparing the same for market, and transporting the same. The said corporation shall have power to use a

common seal, and make by-laws not inconsistent with any existing law of the State, regulating the transfer of its stock, and to make a regulation that stock shall be forfeited by the failure on the part of any stockholder to pay his dues, by notice given through the gazettes, or otherwise, as the corporation may prescribe.

SEC. 2. *Be it further enacted*, That the capital stock of said company shall not exceed two hundred thousand dollars, and the capital stock may at the commencement, be fixed at any sum not exceeding two hundred thousand dollars, which the said corporation may prescribe, and may be increased by the said corporation as it may deem expedient; *Provided*, That the capital stock shall not be so increased as to exceed two hundred thousand dollars. The said corporation may divide the capital stock into such number of shares, of such amounts as may be deemed expedient, and each shareholder shall be entitled to one vote for each share which he may own or represent in said corporation, and upon all questions to be decided by a vote of the stockholders, a majority of the votes cast shall govern. Capital.

SEC. 3. *Be it further enacted*, That the said John M. Moore, Francis M. Thomason, Wm. Taylor, William A. Dury, John White, William H. Moore, Jr., and J. A. Richardson, or a majority of them, may prescribe the number and amount of the shares, may open books, and receive subscriptions of stock in money, land, negroes or other property as they may deem expedient and right, may admit persons to become stockholders with such number of shares as they may prescribe, and such persons when admitted, shall be entitled to the same rights, privileges and immunities, with other stockholders. Open books.

SEC. 4. *Be it further enacted*, That there shall be a president of the said company, with such other officers, as the by-laws may prescribe, and the duties of such officers shall be prescribed by the by-laws, and there shall also be a board of directors, of such number as the by-laws may prescribe, and the said corporation may impose such duties, and confer such powers on such offices and directors as it may deem proper for the purpose of transacting the business of the said company. Officers.

SEC. 5. *Be it further enacted*, That the said corporation may by by-laws provide for the casting of votes by stockholders through proxies. Votes.

SEC. 6. *Be it further enacted*, That the said corporation may appoint agents for the receiving of subscriptions of stock, and may through its agent or agents, open books for Subscription.

the subscription of stock at any time or place which it may prescribe.

Road.

SEC. 7. *Be it further enacted*, That said body corporate shall have power to construct a plank or railroad from their mines to the Alabama and Tennessee rivers railroad, or to the Coosa river, and may lay and collect tolls for travel and transportation on the same, and shall have the right to contract with the owner or owners of lands for the right of way for such plank or rail road, and for lands near to and adjoining said rail or plank road, for depots, turnouts and tracks, and if the owner or owners of lands which may be required for these purposes, cannot agree about the same, then it shall be lawful for said company, acting by its agent or agents, to apply to the clerk of the circuit court in the county in which the lands may be situated, for a writ of *ad quod damnum*, who shall issue the same, directed to the sheriff of his county, commanding and requiring him to summon seven disinterested freeholders of his county, whose duty it shall be to attend the summons of the sheriff, to visit the premises and assess the damages which the owner or owners of the land may sustain by the condemnation, for the use of said company, of land for right of way as aforesaid, not exceeding one hundred feet in width, for such track, and for depots and turnouts, and as aforesaid not exceeding three acres at any one place, on or near such road; any five of the jury who may be summoned, shall be authorized to render a verdict, and may act alone; the person or persons whose lands is sought to be condemned, shall have as much as five days written notice, (if a resident of the county in which the land may be situated,) of the time and place of the meeting of the jury of review, if not a resident of the county, but in the State, shall have in addition to the five days notice, two days at least for every fifty miles of his or their residence from the place appointed for the assembling of the jury, which shall be on the lands sought to be condemned, which notice shall be sent by the sheriff of the proper county in official character, or by his deputy, who may also summon the jury provided for, and also do whatever act is by this act required of the sheriff. If the lands sought to be condemned should belong to the estate of a deceased person, the notice required shall be served on his, her or their executor or administrator; if to a minor or minors, on their guardian; if to a non-resident, the notice shall be given by advertisement for four consecutive weeks, in some newspaper published nearest to the land sought to be condemned, which notice

Clerk.

for publication shall be signed by the clerk of the circuit court, and set out the facts, so far as may be required for a proper notice. It shall be the duty of the sheriff to attend promptly to the duties required by this act, and for a failure, he shall be liable to be sued as for neglect of duty in other cases, and for his services he shall be allowed such compensation as is by law allowed for similar services. It shall be his duty in person, or by deputy, to attend said jury in making their review; when the jury shall by viewing the premises, and by such other evidence as may be adduced, become satisfied as to the damages which the owner or owners may sustain by the condemnation, they shall render their verdict in writing, which shall be subscribed by such of the jury as may concur in it, and be attested by the sheriff or his deputy, and by him returned to the office of the clerk of the circuit court of the proper county, who shall preserve the same and furnish a copy of it to the party desiring and paying therefor. If either party should be dissatisfied with the verdict of the jury, he may appeal to the circuit court of the county in which the lands lie, if the appeal be taken in thirty days after the rendition of the verdict, giving the opposite party as much as five days notice of the appeal. If no appeal shall be taken within the time prescribed, the lands sought to be condemned, shall vest in and become the property of the company on the payment by the company of the sum assessed by the jury, as the damages to be sustained by the owner or owners of the land, which payment of the damages may be made to the judge of the probate court of the county in which the land lie, in the absence of the party entitled to receive the money, for which said judge shall be held responsible on his official bond, to the party entitled; the costs of the proceedings in case no appeal shall be taken, to be paid by the company, and if an appeal be taken the question of damages and costs to be determined by the jury in the circuit court, and satisfaction of the judgment founded in the circuit court to vest the title of the lands sought to be condemned, in said company. The jury who may be impanelled to try the matters in controversy, shall take an oath or solemn affirmation, to be administered by the sheriff, to render their verdict without partiality and according to truth and justice.

Sheriff.

Damages.

Appeal

Probate court.

APPROVED, January 26, 1858.

[No. 131.]

AN ACT

To incorporate the Rock Island and Coosa Mining company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That James George and Henry J. Sawyer, their associates and such other persons as may hereafter be associated with them, and their successors be, and they are hereby constituted a body corporate in fact and in name, under the style and title of "the Rock Island and Coosa Mining company," and by that name shall be and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and realize to them and their successors, lands, rights, tenements, hereditaments, goods, chattels and effects, of whatever kind, nature or quality, in any amount the body corporate may deem necessary, to carry all the objects of said corporation into full force and effect, which objects are to mine, transport and sell ores, lead, copper, silver, iron, magnesia, &c., and the same to sell, grant, demise, alien, and dispose of, to sue and be sued, to plead and be impleaded, answer and be answered, defend and be defended in all courts having jurisdiction, to make, use and have a common seal, and the same to break, alter and renew, at pleasure, to own and hold in perpetuity, such quantity of land as may be sufficient to carry on the business of said company.

Body corporate.

SEC. 2. *Be it further enacted,* That said body corporate shall have the privilege of prescribing the capital stock, and the number of shares into which the capital of said corporation shall be divided, the mode in which it shall be taken, paid, transferred or assigned, and also to prescribe the mode by which stockholders may vote, and the number of votes to which each share shall be entitled; *Provided, nevertheless,* That the rules adopted shall be uniform, equally securing the rights of each stockholder, and also to provide for the election, by ballot, of such officers as may be deemed necessary for the government of the affairs of said corporation, and also to authorize, establish and put into execution, such by-laws, ordinances and resolutions as they shall deem necessary and expedient for the government of said corporation, not being inconsistent with the laws of the State of Alabama, and of the United States, and in general to do and execute all and singular, the acts, matters and things, which may be necessary for mining, smelting, transporting and selling ores, minerals, or their

Capital.

other products; *Provided, also*, That no stockholder shall be held liable for more than the amount of his or her stock in said corporation.

SEC. 3. *And be it further enacted*, That if the officers are not elected by the stockholders of said company on the day fixed by the by-laws or ordinances, the corporation for that cause, shall not be dissolved, and it shall be lawful to hold said election on some other day, according to the rules of the corporation.

APPROVED, February 1, 1858.

[No. 132.]

AN ACT

To incorporate the Rockford Mining company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That James Vansandt, Abraham Vansandt, John B. Overton, James H. Smith and Wade Keyes, and such other persons as may be associated with them, and their successors be, and they are hereby made and constituted a body corporate, under the style and name of "the Rockford Mining company," and by that name they shall be capable in law to hold, purchase, receive, possess and enjoy, to them and their successors, real and personal property in any amount they may deem useful in carrying all the objects of said corporation into full force and effect, which objects are to mine and to transport and sell minerals and metals, in a crude or prepared state, and the same to prepare for market in any manner they may deem most advantageous, and by that name they shall sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts having jurisdiction, and the corporation shall have power to make, use and have a common seal, and the same to break, alter and renew at pleasure.

Body corporate

SEC. 2. *Be it further enacted*, That the capital stock of said company shall be six hundred thousand dollars, and the number of shares shall be six hundred, and the said incorporation may increase the amount of the capital stock and of the number of shares; *Provided, nevertheless*, That the rules adopted shall be uniform, equally securing the rights of each stockholder.

Capital.

Management.

SEC. 3. *Be it further enacted*, That the stockholders of said corporation shall have the power, by a plurality vote of a majority of the directors of said corporation or of the stockholders, to make such by-laws and to pass such resolutions, and the same to put into execution as they may judge expedient for the management of the interests of said corporation, not being inconsistent with the constitution of this State nor of the United States; *Provided*, That the powers here granted shall not be construed to authorize the issuance of notes to circulate as money.

By-laws.

SEC. 4. *Be it further enacted*, That if officers be not elected on the day appointed by the by-laws, the corporation shall not for that cause be dissolved, but those in office shall hold until their successors have been elected.

Right of way.

SEC. 5. *Be it further enacted*, That the said corporation shall have the right to construct railways or other roads from their mines to such points as they select, and it shall be entitled to acquire the right of way for such roads and the necessary turnouts, and also such lands as may be necessary for depots, and in acquiring the right of way for the main roads, and necessary turnouts, and lands for depots, the corporation shall be governed by one of the charters heretofore granted to a road in this State, and that said corporation may lay and collect fare, freight and tolls for the use of any such road constructed by it.

APPROVED, February 3, 1858.

[No. 133.]

AN ACT

To incorporate the Shelby County Iron Manufacturing company.

Body corporate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Horace Ware, of Shelby county, together with such persons as may hereafter associate with him, for the purposes hereinafter expressed, is hereby constituted a body corporate, with power of continual succession to him and them, and his and their heirs and assigns, with power to sue and be sued, contract and be contracted with, to hold, alien and convey, buy and receive lands, tenements, interests and chattels, and to have and use a common seal, and

the same to change or alter at their pleasure, to make and execute contracts, promissory notes, bonds and other obligations, under seal or not under seal, and with or without their corporate seal, all of which shall bind the property and interests of said corporation; *Only provided*, The powers here granted shall not be construed to authorize the issuance of notes to circulate as money.

SEC. 2. *Be it further enacted*, That said corporation shall have power to manufacture iron, and any and all manner of fabrics made of iron, or slate, or other raw material, and to vend the same, and the products thereof, and buy and sell such goods, wares, merchandize and commodities, as may be necessary for carrying on their business. Power.

SEC. 3. *Be it further enacted*, That said body corporate shall be known by the name of the "Shelby County Iron Manufacturing company," by which name it shall sue and be sued, purchase, receive, possess, and realize to them and their successors, property of whatever kind, nature or quality, in any amount the body corporate may deem necessary to carry all the objects of said corporation into full force and effect, and do and perform whatsoever it is by this charter authorized to do, and all instruments in writing, and contracts under seal, or otherwise, and all deeds to or from said body corporate, shall be signed and executed only through and with such officer or agent as said body corporate shall appoint and direct. Name.

SEC. 4. *Be it further enacted*, That said body corporate shall have power to ordain and establish such by-laws, rules and regulations for the government and conduct of its officers and agents, as it shall deem appropriate to its business; *Provided*, They be not contrary to the constitution or laws of this State or of the United States. Government.

SEC. 5. *Be it further enacted*, That the capital stock of said company may consist of the property in Shelby county, now held by said Horace Ware, consisting of five thousand acres of land, more or less, on which is located the iron furnace, and of such other property and money as may hereafter be associated and connected therewith by said company, and said stock may be valued by said company at such sum as they may determine on, and divided into shares of one hundred dollars each. Capital.

SEC. 6. *Be it further enacted*, That no dividend shall be declared or paid by said company except from the nett profits of its business.

SEC. 7. *Be it further enacted*, That the said company shall have the right to locate, establish and construct such graded

Roads.

and turnpike roads, railroads, plank and other roads, and bridges, as it may deem necessary or expedient to carry on its business, and to transport its products, and may charge toll and transport for hire, property and persons, on said road or roads, and may connect the same with the Alabama and Tennessee Rivers Railroad, or any other railroad, upon such terms as the directors of said road or roads may consent to, and said company is authorized to contract for and receive conveyances of the rights of way for any such road, and of lands for their turnouts, warehouses, platforms and places of deposit for its iron, coal, and other property, and in case the company and owner or owners of the land which may be required for the above purposes, fail to agree on the price, or from any other cause, the company should be unable to obtain by purchase the title to such lands and rights of way, the said company may cause said lands to be condemned to its use in the manner prescribed in the fifth section of an act entitled an act "to amend the charter of the Alabama and Tennessee Rivers Railroad company," approved February 10th, 1852; and this company for the purpose of condemning the lands required as aforesaid, and obtaining title to the same, shall have and exercise all the powers, rights, privileges and immunities, and be subject to such restrictions, limitations and provisions, as are granted to and imposed upon the Alabama and Tennessee Rivers Railroad company, by the fifth section of the act aforesaid.

Liquor.

SEC. 8. *Be it further enacted*, That it shall not be lawful for any person or co-partnership to sell spirituous liquors within three miles of the iron works of said corporation, and if any person or persons shall sell spirituous liquors in violation of this section, such person or persons shall be liable to indictment, and on conviction be fined in a sum of not less than one hundred nor more than five hundred dollars for each and every offence.

APPROVED, February 4, 1858.

[No. 134.]

AN ACT

To incorporate the Tallapoosa Mill and Bridge company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That William Wills, George W. Gammill, John W. Smith, of Tallapoosa county, their associates and successors, be, and they are hereby declared a body corporate, under the name and style of "the Tallapoosa Mill and Bridge company," and by that name they may sue and be sued, plead and be impleaded, in any manner of suit either in law or equity, may have and keep a common seal, and the same may alter, amend or break at pleasure, and in short shall have power to do and perform all acts incident to bodies corporate; and may purchase, hold and dispose of, for the benefit of said company, property, real, personal or mixed, to the amount of one hundred and fifty thousand dollars. Body corporate.

SEC. 2. *Be it further enacted,* That said Tallapoosa Mill and Bridge company shall have power to appoint its officers and prescribe their duties, and may adopt such constitution and by-laws for its own government as its members may deem proper, not inconsistent with the constitution and laws of the United States or the State of Alabama, and may erect such a dam across the Tallapoosa river as may be necessary for the carrying on the business of milling or manufacturing; *Provided,* the butments are on their own land, and that they shall not damage the possession of others by backing water upon them. Officers.

SEC. 3. *Be it further enacted,* That said company be, and they are hereby authorized to erect a good and substantial bridge across the Tallapoosa river, within one-half mile of the south-west corner of section sixteen, in township twenty-three, of range twenty-three, in Tallapoosa county, and charge such toll upon the same as may be fixed by the court of county commissioners, or such toll as may be fixed by such court for passage across said river in said county, and no greater; *Provided,* That the abutments of said bridge shall rest upon the land of said company. Bridge.

SEC. 4. *Be it further enacted,* That the provisions of this act shall remain in force for the term of fifty years, and that nothing in this act shall be so construed as to give to said company any other powers than those which are necessary for building the bridge contemplated, and carrying on the milling and manufacturing business. Fifty years.

APPROVED, February 5, 1858.

[No. 135.]

AN ACT

To incorporate the Mobile and Ohio Telegraph company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That William James, A. K. Montgomery, William M. Swain, C. J. McRae, L. J. Flemming, Moses Gibson, L. B. Moody, E. P. Davis and their associates, who have acquired of Samuel F. B. Morse, the right to construct and carry on the electric magnetic telegraph, by him invented and patented, through this State, on the route of the Mobile and Ohio Railroad, and to the mouth of the Ohio river at Cairo, Illinois, are hereby created a corporation and body politic, for the purpose of creating and maintaining a line of telegraph on the route aforesaid, and transmitting intelligence by means thereof, under the name and style of the Mobile and Ohio Telegraph company.

Body corporate.

SEC. 2. *Be it further enacted,* That the stock of said company shall consist of shares of fifty dollars each, to be issued in such proportion to the owners of the patent right, and to those who may furnish funds for the construction and improvement of said line of telegraph, as the said owners and subscribers may hereafter agree upon: *Provided,* That the funds to be used for the construction of said telegraph, putting the same in operation, and from time to time adding to and improving it, shall be only sufficient for their purposes, and shall not be invested or used for any other purpose whatever.

Stock.

SEC. 3. *Be it further enacted,* That said corporation shall have the power to build and purchase any connecting or side lines, having acquired the right to do so, and may enlarge their capital for that purpose.

Power.

SEC. 4. *Be it further enacted,* That the persons named in the first section of this act, or any three of them, shall have power to call a meeting of the corporate body hereby created, giving three weeks notice of the time and place of meeting, in at least one newspaper published in Mobile, Macon, Columbus and Aberdeen, Mississippi, and at any other point where there is a newspaper published, and that two thousand dollars stock of the company, held by subscribers for building the line, shall be applied for the purpose of organizing the company, and electing a president, secretary and treasurer, together with a suitable number of directors, as may be determined on by the stockholders, for the management of their affairs.

Meeting.

SEC. 5. *Be it further enacted,* That the president, secretary treasurer and directors, shall hold their offices for one year, and until their successors shall be elected, and shall exercise such powers pertaining to the building, and maintaining and managment of said telegraph, not incompatible with the constitution and laws of the State as may be authorized by the by-laws of said corporation. Officers.

SEC. 6. *Be it further enacted,* That at every election each share shall entitle its holder to one vote, except that no stockholder in his own right shall give more than one fifth of the entire vote to which the stockholders are entitled, and absent stockholders may vote by agents or proxies, producing written authority therefor, and in case of a tie on any vote, it shall, if in case of an election of an officer, be determined by lot. Vote.

SEC. 7. *Be it further enacted,* That the Mobile and Ohio Telegraph company, hereby incorporated, shall have the power to sue and be sued, complain and defend, in any court of law and equity, having competent jurisdiction; to make and use a common seal, and the same to alter at pleasure, to hold and purchase such real and personal estate as the lawful purposes of the corporation may require, and the same to sell and convey, when no longer so required, to appoint such officers and agents as may be necessary to manage the business of the corporation, and order them suitable compensation, and to make by-laws not inconsistent with any existing law for the management of its property, the regulation of its affairs, and for the transfer of its stock. Seal.

SEC. 8. *Be it further enacted,* That the corporation hereby created, shall have power to contract with other persons, or bodies politic to connect their line of telegraph, with the lines out of the State, or to build out of the State, having first secured the right to do so. Connect.

SEC. 9. *Be it further enacted,* That the Mobile and Ohio Telegraph company shall have power to set up their posts and fixtures along the route of the Mobile and Ohio Railroad, first having the consent of that company, and in other respects enjoy equal rights and privileges with other telegraph companies, doing business in this State under general laws. Posts.

SEC. 10. *Be it further enacted,* That every person who shall destroy, or commit a trespass upon the fixtures of said corporation, created in pursuance of the authority hereby given, actually interrupting, or with intent to interrupt the operations of the telegraph, shall pay to the said corporation five hundred dollars for such offence, and shall be fur- Penalty.

Damages.

ther liable for all damages which the said corporation may suffer in repairing the injury and the interruption of their business, to be recovered in an action of trespass, and shall be further liable to indictment, and on conviction, be fined or imprisoned, at the discretion of the court; and if any person incurring the penalty aforesaid, shall through insolvency, or other cause, be unable, or shall fail to pay the damages aforesaid, and shall a second time destroy, or commit a trespass upon said fixtures, he shall be subject to imprisonment not less than one month nor over twelve months, in the county jail, or state prison, at the discretion of the jury trying the same, on conviction thereof before any court of competent jurisdiction.

Preference.

SEC. 11. *Be it further enacted*, That the said corporation shall be bound on application of any of the officers of this State acting, in the event of any war, insurrection, riot, or civil commotion, or resistance of public authority, or prevention or punishment of crime, of the arrest of persons charged or suspected thereof, to give to the communication of said officers, immediate dispatch, to the preference of any private or business dispatch, he or they paying the company no more than the ordinary charges for said communication.

SEC. 12. *Be it further enacted*, That this act is to take effect immediately and to be deemed a public act.

SEC. 13. *Be it further enacted*, That nothing in this act contained shall be so construed as to prevent the General Assembly from chartering at any time, another telegraph company, with power to construct another line of telegraph on the same route, and between the same points herein designated.

APPROVED, January 20, 1858.

[No. 136.]

AN ACT

To incorporate the Alabama Bible and Colporteur society.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That I. T. Tichenor, president, F. M. Lau, corresponding secretary, Johnathan Harralson, recording secretary, Dent Lamar, treasurer, and the following board of directors viz: A. G. McCraw, president, W. B. Harralson, C.

H. Cleaveland, Sr., James H. Barnes, F. L. Johnson, A. Andrews, G. C. Johnson, J. E. Prestridge, Jere Johnson. and William M. Ford, and their successors in office be, and the same are hereby constituted a body corporate by the name and style of "the Alabama Baptist Bible and Colporteur society," for the sale and gratuitous distribution of bibles, religious books, and tracts, and as such shall have perpetual succession, may sue and be sued, may have a common seal, may make, seal, deliver, and receive titles to property, both real and personal, may receive donations, bequests, and devises of real and personal property, choses in action, and money, and may do all other acts which may be necessary for the purpose of accomplishing the objects of said society. Body corporate.

SEC. 2 *Be it further enacted*, That said society shall be subject to the control and direction of a majority of the members present at each annual meeting thereof, who shall have the right of electing such officers and board of directors, and of adopting such a constitution and by-laws as they may deem necessary for the prosecution of the objects of said society, and that the officers and board of directors so elected shall hold their offices until the next annual meeting, or till their successors are duly elected and qualified: *Provided*, however, the board elected shall have the power of filling such vacancies as may occur during the year. Officers.

SEC. 3. *Be it further enacted*, That said society shall have the right to locate a depository in the city of Selma, Alabama, and employ such agents and colporteurs as may be necessary for the transaction of the business thereof, and that the same shall have the right of holding real estate: *Provided*, their capital shall not exceed fifty thousand dollars in all, and that all their purchases, sales, moneys, and property of every kind, shall be forever exempt from taxation. Agent.

SEC. 4. *Be it further enacted*, That no misnomer or misdescription of said corporation in any will, deed, gift, grant, devise, or any other instrument of contract, or conveyance, shall in anywise defeat, or fail on account thereof, but the same shall operate, and take effect in like manner as if said corporation were therein named as herein set out: *Provided*, it shall sufficiently appear that such conveyance or contract referred to the corporation herein named.

APPROVED, February 8, 1858.

[No. 137.]

AN ACT

To amend the charter of the Protestant Orphan Asylum society, located at Mobile.

Body corporate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be lawful for said society to receive under its charge any poor and destitute children under the age of fourteen years, whether they be orphans or not, and to keep, control, and bring up such children under such rules and regulations as may be adopted from time to time, under the first section of the act to which this is an amendment: *Provided*, that if either parent is living, said society shall, before receiving any such child, have first obtained the written consent of the father, if living, or of the mother, if the father is dead.

Apprenticed.

SEC. 2. *Be it further enacted,* That said society is hereby authorized to apply to the judge of probate of Mobile county, to have any child so under its charge bound out and apprenticed to such suitable person or persons as shall be selected. For the purpose of making this right effectual, subdivision eight of section 670 of the Code, and sections 1215, 1216, 1217 and 1218 of the Code are hereby made applicable in the premises.

Donations.

SEC. 3. *Be it further enacted,* That said society shall be authorized to receive any devise, legacy, or bequest which may have been made heretofore, or which hereafter may be made, and to provide for its investment, or other appropriation, in such manner as may deemed best for the advancement of the charitable purpose of said society.

APPROVED, December 12, 1857.

[No. 138.]

AN ACT

To incorporate the Covington Canal company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That A. G. Mallett and John Dixon, and their associates, are hereby incorporated under the style of the Covington Canal company, and by that name may sue and be sued,

and hold property, not to exceed one hundred thousand dollars.

SEC. 2. *Be it further enacted*, That said company is authorized to cut out and construct a canal, commencing on the Conecuh river, at some point above the mouth of the Sepulga river, and connecting with the Black Water river, at the junction of Bear and Panther creeks; such canal to be of such width and depth as may be deemed necessary by said company. Canal.

SEC. 3. *Be it further enacted*, That the said company may charge such tolls for boats, or rafts, or logs, as from time to time may be fixed by the court of county commissioners of Covington county.

APPROVED, February 5, 1858.

[No. 139.]

AN ACT

To incorporate the Trustees of the Providence Infirmary, of Mobile.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the association of individuals formed in the city of Mobile, having already erected and in operation an asylum, or hospital or the indigent sick in that city, known as the "Providence Infirmary," and the individuals composing the same, and their successors, are hereby declared to be a body politic and corporate, under the name and style of the "Trustees of the Providence Infirmary, of Mobile," which corporation is created for the purpose of better enabling the said association to continue and sustain the aforesaid Infirmary and extend its usefulness, as well as such other objects of charity, in connection therewith, as they may deem proper and necessary. Body corporate.

SEC. 2. *Be it further enacted*, That the said corporation, and their successors, shall and may have a common seal, which they may break and alter at pleasure; and shall have power to adopt, make, and ordain, from time to time, such rules, by-laws, and ordinances for the direction and government, and succession of their own body, as they may deem necessary for fully carrying out the object for which the association is incorporated, and alter or repeal the same Seal.

at pleasure: *Provided*, that such by-laws, rules, or ordinances shall not be repugnant to the Constitution or laws of the United States, or the State of Alabama.

Hold property.

Proviso.

SEC. 3. *Be it further enacted*, That the said corporation, under the name and style aforesaid, shall be able and capable to purchase, or receive by purchase, or otherwise, and to have, hold, possess, and enjoy to itself in perpetuity, or for any term of years, any estate, whether real or personal, of whatever kind or nature, for the purposes of sustaining and supporting the aforesaid "Providence Infirmary," or such other similar institutions of charity as they may at any time establish, and sell, lease, or dispose of the same under its said name and title, as the corporation may deem proper: *Provided always*, that no property, of any kind or nature, or however acquired, shall ever be alienated from the purposes of charity in the city of Mobile, for which the corporation was formed; and shall also have under its aforesaid name and title, full power to sue and be sued, to plead and be impleaded, to answer and be answered to in any court of law or equity, and have and possess all the rights, privileges and powers incident to bodies corporate established for similar purposes.

SEC. 4. *Be it further enacted*, That no misnomer of said corporation shall operate, or have any effect for or against it, provided the intention be evident: *Provided*, that the amount of property held by said corporation shall at no time exceed the sum of one hundred thousand dollars.

APPROVED, February 8, 1858.

[No. 140.]

AN ACT

To establish a Board of Physicians in the county of Perry.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage, John E. McEachin, Francis A. Bates, Robert D. England, John T. Barron, and Samuel Perry be, and are hereby constituted a board of physicians for the county of Perry, to be styled the Medical Board of Perry county.

SEC. 2. *Be it further enacted*, That said board shall have all the powers and privileges of other medical boards of

this State, and shall be governed by the laws, rules, and regulations now in force for the government of other medical boards.

SEC. 3. *Be it further enacted*, That said medical board, by this act established, shall have the power of filling any vacancies that may occur therein, by death, resignation, or otherwise.

APPROVED, February 2, 1858.

[No. 141.]

AN ACT

To incorporate the Clayton Guards, in Barbour county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That a volunteer company in the town of Clayton, in Barbour county, be, and they are hereby incorporated by the name and style of the "Clayton Guards," subject to the control of the Governor only, except for the purpose of review, for which they may be called out by the Brigadier and Major Generals; and by that name may sue and be sued, plead and be impleaded, buy and sell, and do all other acts which bodies corporate may of right do and perform. Name.

SEC. 2. *Be it further enacted*, That said Clayton Guards are hereby authorized to adopt any constitution and by-laws for their own government, not repugnant to the laws of this State, or the United States, which shall be obligatory on the members of said company until repealed. By-laws.

SEC. 3. *Be it further enacted*, That said company shall consist of not less than thirty, nor more than eighty regular members.

SEC. 4. *Be it further enacted*, That the members of said company be exempt from road and jury duty, and from military duty, except as provided for in this bill.

SEC. 5. *Be it further enacted*, That a certificate from the commanding officer of said company, that the bearer thereof has been, and is an acting member of said company, in complete uniform for six months, shall entitle the said member to the exemptions heretofore enumerated. Exemptions.

SEC. 6. *Be it further enacted*, That said company shall be furnished by the Governor of the State with arms and accoutrements, tents and camp equipage, upon the execution Arms.

of a bond by the officers of said company, with proper security, payable to the Quartermaster General of the State, for the return of the same on demand, should said company disband, and for any damage that they may sustain, through or by negligence of said company.

SEC. 7. *Be it further enacted*, That all laws and parts of laws contravening the provisions of this act be, and the same are hereby repealed.

APPROVED, February 6, 1858.

[No. 142.]

AN ACT

To amend the act to incorporate the Madison Rifles.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the act entitled an act to incorporate the Madison Rifles, approved February 14, 1856, be amended as follows, viz: Strike out all after the word "rifles" in the first section of said act, down to the word "be," and before the word "provided," in said section, insert the words "subject to the order of the Major General and the Brigadier General of the division and brigade to which they belong, for the purpose of review and inspection, the Governor of Alabama only."

APPROVED, February 2, 1858.

[No. 143.]

AN ACT

To incorporate the Cahaba Rifles.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the volunteer company heretofore formed in the town of Cahaba, under the name and style of the Cahaba Rifles, attached to the forty-first regiment, seventh brigade, sixth division Alabama militia be, and are hereby incorpo-

Name.

rated by the name and style of the Cahawba Rifles: *Provided*, they shall muster at least twelve times a year.

SEC. 2. *Be it further enacted*, That the said Cahaba Rifles are hereby authorized to adopt a constitution and by-laws ^{By-laws.} for their own government, not repugnant to the laws of this State, or of the United States, which shall be obligatory on the members of said company until repealed.

SEC. 3. *Be it further enacted*, That all money collected by ^{Fines.} any officer for fines assessed against any member of said company, shall be paid over to any person authorized to receive the same, and all moneys so accruing shall belong exclusively to said company, and be entirely under their control.

SEC. 4. *Be it further enacted*, That said company shall consist of not less than thirty-two nor more than eighty regular members.

SEC. 5. *Be it further enacted*, That in order the said company may be augmented and perpetuated, the members thereof are hereby exempt from working on roads, and from jury duty.

SEC. 6. *Be it further enacted*, That a certificate from the commanding officer of said company, that the person named ^{Exempt.} in said certificate has been an acting member in said company, in complete uniform, for five years, shall exempt said person from performing military duty in any part of the State.

APPROVED, February 2, 1858.

[No. 144.]

AN ACT

To amend an act therein named, incorporating the White Plume Riflemen.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That whenever the name "White Plume Riflemen" occurs in the act approved February 3, 1852, to incorporate the White Plume Riflemen, in the county of Lauderdale, be so amended as to read, the Florence Guards, and by that name said corporation shall hereafter be known.

APPROVED, January 27, 1858.

[No. 145.]

AN ACT

To incorporate the Franklin Guards.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Franklin Guards be, and they are hereby incorporated by the name and style of the Franklin Guards, as an independent company, in the town of Tuscumbia, in Franklin county, and by that name may sue and be sued, plead and be impleaded, and do all other acts which bodies corporate may of right do and perform.

SEC. 2. *Be it further enacted,* That the said Franklin Guards are hereby authorized to adopt a constitution and by-laws for their own government, not repugnant to the laws of this State, or the laws of the United States, which shall be obligatory on the members of said company until repealed.

SEC. 3. *Be it further enacted,* That said company shall consist of not less than thirty, nor more than eighty regular members.

SEC. 4. *Be it further enacted,* That in order that the said company may be augmented and perpetuated, the members thereof are hereby exempt from working on roads, and jury duty.

SEC. 5. *Be it further enacted,* That said company shall be furnished by the Governor of the State with arms and accoutrements, tents, and camp equipages, upon the execution of a bond as prescribed by the military code of Alabama.

APPROVED, February 2, 1858.

[No. 146.]

AN ACT

To incorporate the Eufaula Rifles.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the "Eufaula Rifles" be, and they are hereby incorporated by the name and style of the "Eufaula Rifles," as an independent company, in the city of Eufaula, in Barbour county, subject to the order and command of the Major General and Brigadier Generals of the division to which

they belong, for the purpose of review and inspection ; control of the Governor only ; and by that name may sue and be sued, plead and be impleaded, buy and sell and do all other acts which bodies corporate may of right do and perform.

SEC. 2. *Be it further enacted*, That the said Eufaula Rifles are hereby authorized to adopt any constitution and by-laws for their own government, not repugnant to the laws of this State, or the United States, which shall be obligatory on the members of said company until repealed : *Provided*, that they shall muster at least twelve times a year. Constitution.

SEC. 3. *Be it further enacted*, That all money collected by any officer for fines assessed against any member of said company, shall be paid over to any person authorized to receive the same, and all moneys so accruing shall belong exclusively to said company, and be entirely under their control.

SEC. 3. *Be it further enacted*, That said company shall consist of not less than thirty-two, nor more than eighty regular members.

SEC. 5. *And be it further enacted*, That in order that said company may be augmented and perpetuated, the members thereof are hereby exempt from working on roads, and from jury duty. Exempt.

SEC. 6. *And be it further enacted*, That a certificate from the commanding officer of said company that the person named in said certificate has been an acting member of said company, in complete uniform, for five years, shall exempt said person from performing military duty in any part of the State.

SEC. 7. *And be it further enacted*, That said company shall be furnished by the Governor of the State with arms and accoutrements, tents, and camp equipages, upon the execution of a bond, as prescribed by the military code of Alabama. Arms.

APPROVED, February 3, 1858.

[No. 147.]

AN ACT

To incorporate a company of artillery at Greensboro'.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the act to incorporate a company of artillery at Greensboro', in the county of Greene, approved January 17, 1834, and the act to amend the same, approved January 26, 1846, be, and the same are hereby revived, and continued in force.

APPROVED, February 3, 1858.

[No. 148.]

AN ACT

To incorporate the Baldwin and Perdido Rail Road company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Joseph Hall, William H. ———, Willis L. Milner, Jasper Strong, Patrick Byome, Jackson Morton, and Edward Broughton be, and they are hereby appointed commissioners to open books and receive subscription for stock in a rail road to be constructed from some point on the Perdido river to a point at or near Blakely, in the county of Baldwin.

Open books.

SEC. 2. *Be it further enacted,* That any three of the above named commissioners may open the said books in the town of Blakely, or in any other place, and keep them open until the whole stock is subscribed, and they shall give public notice of the times and places of opening said books for at least twenty days.

SEC. 3. *Be it further enacted,* That the capital stock of said company shall be one million of dollars, with the privilege of increasing it to one million five hundred thousand dollars, should it be found necessary for its construction or future enlargement.

Capital.

SEC. 4. *Be it further enacted,* That the said rail road shall extend from some point in the mid channel of the Perdido river—the boundary line between the States of Alabama

and Florida—to some point on the Tensas river, at or near Blakely.

SEC. 5. *Be it further enacted,* That as soon as one hundred thousand dollars shall have been subscribed to the capital stock of the said company, the subscribers to said stock, their successors and assigns shall be, and they are hereby declared to be incorporated into a company by the name of the Baldwin and Perdido Rail Road Company, and by that name shall be capable in law of holding, leasing, selling and conveying real, personal and mixed property; and by said incorporated name may sue and be sued, plead and be impleaded, answer and be answered in any court of law or equity in the State of Alabama or elsewhere, and to have and use a common seal, and the same to alter and amend at pleasure; to pass such by-laws, ordinances, rules, for the good government of said corporation as to them may seem proper, and generally to do all things necessary to carry into effect, fully and completely, the object of this act. Incorporated.

SEC. 6. *Be it further enacted,* That as soon as one hundred thousand dollars shall have been subscribed, the commissioners hereby appointed, or any three of them, shall call a meeting of stockholders at such time and place as may be convenient; and at such meeting the said stockholders, or a majority of them in value, shall elect nine directors, by ballot, to manage the affairs of the said company, and the commissioners aforesaid, or any three of them, or more, shall be the judges of said first election of directors, and the directory thus chosen shall elect one of its members a president of said company. On all occasions, whenever a vote of stockholders shall be taken, each stockholder shall be allowed one vote for every share owned by him or her, and a vote by proxy is hereby authorized. Meeting.
President.

SEC. 7. *Be it further enacted,* That the president and directors shall be chosen annually by the stockholders, and if any vacancy shall occur by death, resignation, or otherwise, of any president or director, before the year for which they were elected shall have expired, such vacancy shall be filled by the president and directors, or a majority of them, and the president and directors shall hold their offices until their successors are chosen and qualified. They shall have power to call meetings of stockholders at any time. Vacancies.

SEC. 8. *Be it further enacted,* That the president and directors, or a majority of them, shall have power to appoint all officers and agents to carry on the business of said company, dismiss them at pleasure, and determine the compo- Officers.

By-laws.

sation for each of them; they shall have power to pass all by-laws necessary and proper for the due exercise of all the powers vested in this company: *Provided, only*, That such by-laws shall not be contrary to the laws of the United States, or the State of Alabama; and said president and directors, or a majority of them, are empowered to borrow money to carry into effect the objects of this act, to issue certificates or other evidences of such loan, and pledge the property of said company for payment of the same with interest.

Stockholders.

Defaulters.

SEC. 9. *Be it further enacted*, That the said president and directors shall have power to require the stockholders of said company to pay such installment on their respective shares of stock, and at such times as may be deemed best for the company's interest; and upon the failure, or refusal, of any stockholder to pay the installment required on his, her, or their stock, in pursuance of any call made by said president and directors as aforesaid, said president and directors may, upon giving thirty days' notice, proceed to sell, at public sale, the slave, or slaves, of said stock owned by the defaulting stockholders, or such part thereof as they may think proper, to the highest bidder, and if upon a sale of the shares of stock owned by said defaulting stockholder, said stock should be sold for more than the amount due upon installments as above mentioned, the excess, after deducting accruing interest and the necessary expenses of sale, shall be paid over to said defaulting stockholder; and if said stock should be sold for less than the amount due upon installments as above mentioned, the deficit, with accruing interest and the expenses of sale, shall be recoverable in the appropriate courts of law of the State, or the United States.

Conveyances.

SEC. 10. *Be it further enacted*, That the president and directors of said company are hereby authorized to contract for and receive conveyances of lands, stone, timber and wood which may be necessary, or required, in the construction or maintenance of said rail road; and when the owner and company cannot agree upon a price, or when the owner is an infant, non-resident, or *non compos mentis*, then it shall be lawful for the president and directors of said company to apply to the sheriff of the county in which said lands or other property may be situated, who shall summon a jury of seven disinterested freeholders, a majority of whom shall be authorized to assess the damages and return their award, or judgment, to the next term of the circuit court for the county in which said land or other

property may be situated, and which shall be entered by the clerk as the judgment of the court, and execution may issue thereupon for the amount of said judgment and costs: *Provided, always*, That if either party shall, upon return thereof, be dissatisfied, they may, upon filing bond with good security in such sum as the court may order, be allowed an appeal to the next term of the circuit court. Said case shall stand for trial *de novo*: *Provided, also*, Thirty days notice shall have been given to the opposite party, issued by the clerk of the court and served by the sheriff of the county. Bond.

SEC. 11. *Be it further enacted*, That jurors summoned as aforesaid shall (before proceeding to the discharge of the duties herein required,) take an oath, or affirmation, which the sheriff is hereby authorized to administer, to the effect that they will well and truly enquire into, and to the best of their judgment assess the damages accruing to the owner, or owners, of such lands, or materials, by means of the proposed construction. Damages.

SEC. 12. *Be it further enacted*, That such lands, or other property, as may be condemned, or estimated, aforesaid, shall enure to and become the property of said company for the purpose aforesaid, upon the payment by the said company of the amount assessed by said jury to the party claiming damages on account of the construction of said roads through said lands, or for such other property: *Provided*, That said work shall in no wise be delayed on account of the proceedings had as aforesaid.

SEC. 13. *Be it further enacted*, That if in any case any person shall wilfully and maliciously injure, or obstruct, in any degree, the said road, or roads, he or she shall forfeit and pay to the president and directors of said company three times the amount of all damages that sustain in consequence thereof, to be sued for and recovered in the same manner as provided by law for individuals in like cases; and on complaint to any magistrate, within whose jurisdiction such offence shall be committed, it shall be the duty of such magistrate to bind the person, or persons, so offending with sufficient security, for his, her, or their good behavior for a period of not less than one year, and such offender shall be subjected to indictment, and shall be sentenced, at the discretion of the court, to be imprisoned not less than three or more than twelve months. Injuro.

SEC. 14. *Be it further enacted*, That in the construction of said rail road, the president and directors of said company shall in no manner obstruct any public road now estab-

lished, but shall provide convenient passages to travel over said road.

Payments.

SEC. 15. *Be it further enacted*, That payments of subscription to the stock in said rail road may be made in materials, labor, provisions and in real, personal, or mixed property, which the board of directors, at their discretion, may deem expedient to accept.

Tolls.

SEC. 16. *Be it further enacted*, That after the completion of said road, or any part thereof, the said president and directors may lay and collect tolls from all persons, property, merchandise and other commodities transported thereon: *Provided*, The nett profit of said road shall not exceed twenty per cent. per annum.

Cross.

SEC. 17. *Be it further enacted*, That the General Assembly reserve the right and power to authorize the construction of any rail road to cross the one by its branches, authorized in this act, at any point the General Assembly may deem proper.

Banking.

SEC. 18. *Be it further enacted*, That nothing in this act shall be so construed as to confer upon said company any right to exercise the powers of a banking company, or to issue any subscription of paper, or evidences of debt, intended as a circulating medium.

SEC. 19. *Be it further enacted*, That said company hereby incorporated shall commence the building of said road within two years, and complete the same within ten years from the passage of this act.

Branch road.

SEC. 20. *Be it further enacted*, That the said company hereby incorporated is authorized to construct branch road, or roads, if deemed necessary, and to extend the main stem, across the rivers and marshes, to the city of Mobile, or to some point on the west bank of the Mobile river: *Provided, always*, That in constructing bridges over the Tensas, Spanish, or Mobile rivers, or any other navigable stream, that ample passage through the same shall be provided for steamers and sail vessels of the largest class navigating said rivers or streams.

APPROVED, February 6, 1858.

[No. 149.]

AN ACT

To incorporate the Columbus and Tennessee Valley Railroad company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That David Deshler and W. W. Lucas, of Franklin county, Chas. F. Betts and Thomas P. McConnell, of Fayette county, James B. Bankhead and B. W. Howell of Marion county, Samuel J. Legget, of Lawrence county, and R. N. Walden, of Morgan county, with such other persons as shall associate with them for that purpose, are constituted a body politic and corporate, by the name of the Columbus and Tennessee Valley Railroad company, and by that name may sue and be sued, plead and be impleaded in any court of this State, to make and have a common seal, and the same to break, alter or renew at pleasure, and the company is hereby vested with all the privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this act, hereinafter set forth, and the said company is hereby authorized and empowered to locate, construct, and finally complete and maintain a single, double or treble track of railroad from Tuscumbia or Decatur, or any point on the Memphis and Charleston railroad, between the two, to the State line, dividing the State of Alabama from the State of Mississippi, in the direction of Columbus, Mississippi, on the most expedient route, and to transport, take and carry property and persons upon said railroad, by the power of steam, or any mechanical power, or any combination of them, which the said company may choose to apply, and for the purpose of constructing said railroad, the company is hereby authorized to lay out their road, not exceeding one hundred feet wide, through the whole length, and for the purpose of depots, stations, cuttings and embankments, and for the purposes of necessary turnouts, and for the purpose of obtaining stone, lumber, gravel and other material, may take as much more land as may be necessary for the construction, security and maintenance of said road, with permission to purchase the stock, material and right of way, and to make any lawful contract with any other railroad company, in relation to the business of said company, and also to make joint stock with any other corporation; *Provided,* That all damages that may be occasioned to any person or corporation by

the taking of any land or material as aforesaid, shall be assessed in the manner hereinafter described.

Capital.

SEC. 2. *Be it further enacted*, That the capital stock of said company shall be one and a half millions of dollars, which may be increased to an amount sufficient to construct and fully equip the said railroad as set forth in the first section of this act, and which shall be divided into shares of twenty-five dollars each, which shares shall be deemed personal property, and be transferred in such manner as the by-laws of the company may direct; *Provided*, That said company shall organize so soon as shares to the amount of fifty thousand dollars shall have been taken.

Open books.

SEC. 3. *Be it further enacted*, That the persons named in the first section of this act, or a majority of them, shall open books of subscriptions to the capital stock of said company at such times and places as they may deem proper; *Provided*, The directors may authorize any person to receive subscriptions to the stock at any time or place.

Stockholders.

SEC. 4. *Be it further enacted*, That the immediate government of the affairs of said company shall be vested in a board of directors, eight in number, who shall be stockholders and who shall be chosen by the stockholders of said company in the manner hereinafter provided, and shall hold their office until others are duly elected and qualified to take their places as directors, and the said directors a majority of whom (the president being one) shall be a quorum for the transaction of business, shall elect one of their number to be president of the company, they shall also choose a secretary and other officers as they may deem necessary.

Sum subscribed.

SEC. 5. *Be it further enacted*, That the persons authorized in the third section of this act to open books of subscription to the capital stock of said company, are hereby authorized and required after the books of subscription are closed, or when the sum subscribed shall reach fifty thousand dollars, to call a meeting of the stockholders of said company in such manner and at such time and place as they may appoint for the choice of directors of the said company, and in all meetings of the stockholders of said company each share shall entitle the holder thereof to one vote, which vote may be given by the holder in person, or by lawful proxy, and the annual meeting of the stockholders of said company for the choice of directors, shall be holden at such time and place and upon such notice as the company in their by-laws may publish.

SEC. 6. *Be it further enacted*, That in case it shall so

happen that an election for directors shall not be made on any day appointed by the by-laws of said company, said company shall not for that cause be dissolved, but such election shall be held on any other day which may be appointed by the directors of said company, and said directors shall have power to fill any vacancy by death, resignation or otherwise. Directors.

SEC. 7. *Be it further enacted*, That the said president and directors, or a majority of them, may appoint all such officers, engineers, agents or servants whatsoever, as they may deem necessary to carry on the business of said company, and may dismiss them at pleasure, and a majority of them may authorize the compensation of all officers, engineers and servants of said company; the directors shall also have power to pass all by-laws they may deem necessary and proper, for exercising all the powers vested in this company for carrying into effect the objects of this act; *Provided, only*, such by-laws shall not be contrary to the laws of this State or of the United States. Officers.

SEC. 8. *Be it further enacted*, That the president and directors of said company are hereby authorized to contract for and receive conveyances of land for the tracks of railroad one hundred feet wide, also for depots, stations, warehouses, buildings, side tracks, cuttings, embankments, &c., and for stone, timber, gravel and earth, and for other materials which may be necessary in the construction or maintenance of said railroad, and when the owner and company cannot agree upon the price, or when the owner is an infant, non-resident, or *non compos mentis*, then it shall be lawful for the president and directors of said company to condemn said lands, timbers, stone, gravel, earth and other materials in the manner provided in the charter of the Alabama and Tennessee Rivers Railroad company, and in the amendments thereto. President and Directors.

SEC. 9. *Be it further enacted*, That when said land and other property shall be so condemned and estimated as aforesaid, they shall inure to and become the property of said company forever, upon the payment by said company of the amount assessed by said jury, to the party claiming damages on account of the construction of said road through said lands, or for such other property; *Provided*, That said work shall not be delayed on account of the proceedings had as aforesaid. Damages.

SEC. 10. *Be it further enacted*, That said president and directors shall have power to require the stockholders of said company to pay such installments on their respective shares installments.

of stock in said company, and at such time as they may deem best for the interest of said company, and upon the failure and refusal of any stockholder to pay the installment on his or their stock, in pursuance of any call made by the president and directors as aforesaid, said president and directors may proceed to collect the same as provided in the charter of the Alabama and Tennessee Rivers Railroad company and in the amendments thereto.

SEC. 11. *Be it further enacted*, That said company shall have the right to construct bridges for their road across navigable streams, and to cross and intersect any established rail or other road; *Provided*, The navigation of such stream is not stopped, and the passage of such other rail or other road way is not impeded, and said company may cause any road or way to be changed or altered in such a manner that said railroad may be made on the best site of ground for that purpose; *Provided*, Said company shall put such road or way in as good condition as at the time of altering or changing the same.

Toll.

SEC. 12. *Be it further enacted*, That after the construction of said railroad, the company may collect toll from any person who may ride or transport merchandize or any other commodity on the same.

SEC. 13. *Be it further enacted*, That said railroad shall be commenced, and at least twenty miles of the same be let to contract, in three years from the passage of this act.

APPROVED, January 26, 1858.

No. 150.]

AN ACT

To amend the charter of the Marion Railroad company, and to extend said road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the name of the company now organized under an act, entitled an act to incorporate the Marion Railroad company, approved February 2d, 1854, be, and the same is hereby changed from that of the Marion Railroad company, to that of the Marion and Cahaba Railroad company. Said company shall have all the rights, powers, and privileges, conferred by the act of the 13th February,

1850, and also conferred by the acts of February 2d, and 17th, 1854, or acquired under said acts. Shall sue and be sued, have a seal, and have all rights and powers usual for ^{sent.} corporate bodies of like charter to have in this State, not inconsistent with the laws and constitution thereof.

SEC. 2. *Be it further enacted*, That the stockholders of the Marion and Cahaba Railroad company, be, and they are hereby authorized and empowered to extend the Marion and Cahaba Railroad from the town of Cahaba to a point intersecting the Mobile and Girard Railroad, or any other roads now chartered, or to be hereafter chartered, connecting Montgomery with Mobile, at such point as the stockholders of the Marion and Cahaba Railroad company may designate.

SEC. 3. *Be it further enacted*, That the rights, powers and privileges heretofore conferred on said company by the original and amended charter, shall be in no manner affected or diminished by this amendment, but the same are hereby fully confirmed to said company, over said road, so extended.

SEC. 4. *Be it further enacted*, That the Marion and Cahaba Railroad company shall have two years from and after the passage of this act to complete said roads.

APPROVED, February 6, 1858.

[No. 151.]

AN ACT

To authorize the consolidation of stock by the North East and South West Alabama Railroad, and the Wills Valley Railroad companies.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the North East and South West Alabama Railroad company, and the Wills Valley Railroad company, are hereby fully authorized and empowered with the mutual consent of each company to unite and consolidate their stock, so as to form but one company, and the said Wills Valley Railroad company are hereby authorized to amalgamate its stock with, or transfer it to the said North East and South West Alabama Railroad company, which said act of amalgamation or transfer shall carry with it all the rights,

privileges and benefits of said company, and the said North East and South West Alabama Railroad company, is hereby authorized and empowered to receive said amalgamation, transfer, or assignment of stock, rights and privileges as aforesaid and to demand, sue for, have, hold and enjoy the same in its own name, when so received by assignment and transfer, as fully as the Wills Valley Railroad company, might have done before such amalgamation, consolidation or transfer: *Provided*, The same be done by the mutual consent of the stockholders of the two companies.

APPROVED, February 6, 1858.

(No. 152.)

AN ACT

To amend the charter of the Winchester and Alabama Railroad company, approved 25th January, 1856.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the third section of the act incorporating the Winchester and Alabama Railroad company be so amended and extended, as to authorize and empower said company to extend said railroad across the Tennessee river, at the most practical point on said river, and from thence through Marshall county, to the gap of the Sand Mountain, called Davidson's hollow.

SEC. 2. *Be it further enacted*, That said Winchester and Alabama Railroad, have power and authority to connect with the Tennessee and Coosa River Railroad, at or near some convenient and practicable point, near the Davidson hollow.

SEC. 3. *Be it further enacted*, That the time for commencing and finishing said railroad designated in the seventeenth section of the charter of the Winchester and Alabama Railroad company be, and the same is extended six years longer.

APPROVED, December 17, 1857.

[No. 153.]

AN ACT

To amend the charter of the Alabama and Florida Railroad company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Alabama and Florida Railroad company, of the State of Alabama, is hereby invested with all the necessary powers and privileges to extend their railroad from the city of Montgomery to the town of Selma, in the county of Dallas, and there to connect with the Alabama and Mississippi Rivers Railroad, and with the Alabama and Tennessee Rivers Railroad, by the consent of said companies, so as to pass the trains of each road upon the other, and thereby prevent unnecessary delay in the transportation of freight or passengers. Power.

SEC. 2. *Be it further enacted,* That said company is hereby fully authorized to build a bridge over the Alabama river to pass their trains; *Provided,* That said company shall make such draw in their bridge as will admit of the free passage of first class steamers through said bridge, and that at night said company shall keep the necessary lights at the draws, and such watchmen as will enable steamboats to pass through without danger or delay. Draw bridge

SEC. 3. *Be it further enacted,* That the amendment to the charter of the company provided for in the foregoing sections shall be submitted to the stockholders of said railroad company at their next annual meeting, and can be accepted only by a majority of four-fifths of the whole amount of stock held in said company. Stockholders

APPROVED, February 8, 1858.

[No. 154.]

AN ACT

To amend an act to incorporate the Mobile and Great Northern Railroad company, approved February 15, 1856.

SECTION 1 *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the twenty-seventh section of an act entitled an act to incorporate the Mobile and Great Northern Rail-

Three years.

road company, approved February 15, 1856, be and the same is hereby so amended as to allow the said company three years from and after the passage of this act, within which to comence the construction of the said railroad, and the charter of the said company shall not be forfeited if the construction of the said railroad shall be commenced within three years from the passage of this act.

SEC. 2. *And be it further enacted,* That the charter of the Georgia and Alabama Railroad company be, and the same is hereby extended four years from and after the passage of this act.

APPROVED, February 8, 1858.

[No. 155.]

AN ACT

To amend the charter of the Mobile Bay Road company.

Bay road

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the act entitled an act to authorize the construction of a plank or shell road along the bay of Mobile, approved February 10, 1854, be and the same is hereby so amended as to authorize the Mobile Bay Road company, to remove the plank heretofore placed upon said road, or such part thereof as may from time to time be deemed best, and to construct said road or any part thereof, in the manner of a turnpike, of a mixture of clay and sand, or of some other material or mixture. Said road is hereby required to be made in such manner as to be kept in a hard and compact condition.

APPROVED, January 20, 1858.

[No. 156.]

AN ACT

To authorize the corporate authorities of the city of Mobile to aid in the construction of a railroad upon a vote of citizens.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the corporate authorities of the city of Mobile shall have authority to aid in the construction of a railroad North-Eastwardly from the city of Mobile, either by taxation upon all property subject to taxation, at a rate not exceeding two per centum per annum, for five years, or by the issue of city bonds, for an amount not exceeding one million dollars under such contract with the company, to be aided as the said city authorities may agree upon : *Provided,* That before such tax shall be levied, or such bonds shall be issued, they shall submit to a vote of the persons subject to be taxed, under such regulations as they shall deem just and proper, the questions, whether any such railroad shall be so aided? What railroad company shall be aided? By what means, taxation or bonds? And the said corporate authorities shall be governed by the vote of the persons above specified upon these subjects, and may pass such ordinances as may be necessary to carry out the true intent and meaning of this act.

Corporate authorities levy tax.

APPROVED. February 8, 1858.

[No. 157.]

AN ACT

To incorporate the Uniontown and Jackson Railroad company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That H. W. Hatch, U. S. Price, Thos. J. Hosea, Thos. Holt, W. E. Clarke, W. B. Modawell, Brassfield Jackson, Oliver Bodie, Jas. L. Price, Spencer Adams, Alexander Carlton, Isham Kimbell, James L. Dickson, and B. C. Foster, or such of them as shall accept this charter, with such other persons as shall associate with them for that purpose, and their successors be, and they are hereby

Body politic.

constituted a body politic and corporate, by the name of the Uniontown and Jackson Railroad company, and by that name to sue and be sued, to plead and be impleaded in any court of this State, to make and have a common seal, and the same to break, alter or renew at pleasure; and the company is hereby vested with all powers, and privileges, and immunities which are or may be necessary to carry into effect the purposes and objects of this act hereafter set forth; and said company is hereby authorized and empowered to locate and construct, and finally complete, a single or double railroad or way, either from the town of Uniontown to Jackson, or from some other point on the Alabama and Mississippi River Railroad, to some point on the Tombigbey river, either above or below Jackson, as they may deem proper, and to transport and carry on said way, by power and force of steam or animals; and for the purpose of constructing said railroad, the company is authorized to lay out their said road, not exceeding one hundred feet wide, through its whole length, except that when the road may pass through wood land, they may lay off the same two hundred feet wide, and for the purposes of depots, cuttings and embankments, and for the purpose of necessary turnouts, may take as much land as may be necessary for the construction or security of said road, with permission to make any lawful contract with any other railroad corporation in relation to the business of said company, and also to make joint stock with any other railroad corporation: *Provided*, That all damages that may be occasioned to any person or corporation by taking such lands for the purposes aforesaid, shall be paid for by the said company in the manner hereinafter provided.

Proviso.**Capital.**

SEC. 2. *Be further enacted*, That the capital stock of said company may be two millions of dollars, in shares of one hundred dollars each.

Meeting.

SEC. 3. *Be it further enacted*, That as soon as two hundred thousand dollars shall have been subscribed, the commissioners hereby appointed, or any five of them, shall call a general meeting of the subscribers, at such time and place as they may appoint, and at such meeting, the said subscribers, or a majority of them, in value, shall elect nine directors, by ballot, to manage the affairs of said company, and the commissioners aforesaid, or any five or more of them, shall be the judges of the first election of directors, and the directors thus chosen, shall elect among themselves a president of said company, and allow him such compensation as they may think proper; and on all occasions,

whenever a vote of stockholders shall be necessary, such stockholder shall be allowed one vote for every share owned by him, and he and any stockholder may vote and act by proxy.

SEC. 4. *Be it further enacted*, That the president and directors of said company shall be chosen annually by said company, and shall hold their office until their successors are duly elected. Hold office.

SEC. 5. *Be it further enacted*, That in case it shall so happen that an election shall not be made on any day appointed by the by-laws of said company, said company shall not for that cause be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors of said company, and said directors shall have power to fill any vacancy which may occur by death, resignation or otherwise. By-laws.

SEC. 6. *Be it further enacted*, That said president and directors, or a majority of them, may appoint all such officers, engineers, agents and servants as they may deem necessary to carry on the business of said company, and may dismiss them at pleasure; and a majority of them may determine the compensation of all officers, engineers, agents and servants of said company; shall have power to pass all by-laws which they may deem necessary and proper for exercising all the powers vested in this company, for the purpose of carrying into effect the objects of this act: *Provided*, That said by-laws are not contrary to the laws of this State or the United States. And said president and directors are empowered to borrow money to carry into effect the objects of this act, to issue certificates of such loan, and to pledge the property of the company for the payment of the same with interest. Officers. Provided.

SEC. 7. *Be it further enacted*, That the said president and directors shall have power to require the stockholders of said company, to pay such installments on their respective shares of stock in said company, and at such times as they may think best for the interest of said company; and upon the failure or refusal of any stockholder to pay the installments required on his or her stock, in pursuance of any call made by said president and directors as aforesaid, said president and directors may, upon giving thirty days' notice, proceed to sell at public sale, the share or shares of said stock owned by said defaulting stockholder, or such part as they may think proper, to the highest bidder; and if on the sale of the shares of said stock, owned by said defaulting stockholder, said stock should be sold for less than the Installments. Defaulting.

amount due on installments, as above mentioned, said stockholder shall be liable to pay said company the deficiency in manner and form as hereinafter specified.

SEC. 8. *Be it further enacted,* That upon the failure or refusal of any stockholder to pay any installment called for by the president and directors, or if, upon sale of said shares, as above specified, there should be a deficiency, the president and directors, on giving thirty days' notice to said defaulting stockholder, may proceed by their attorney to move the circuit court of the county where such stockholder may reside, for judgment against him for the amount called for by the president and directors, as the case may be, for any deficiency in the sale of stock as aforesaid, and the court is hereby authorized and required to render judgment against him at the same term the motion is made; upon judgment, execution shall be issued for the amount of it, with costs, and all notices required to be given to any defaulting stockholder, shall be issued by and in the name of the secretary of the board of directors, and served by the sheriff of the county in which the stockholder may reside, and be returned, as in cases of common summons.

SEC. 9. *Be it further enacted,* That said company is hereby authorized to purchase, procure, receive and hold such estate as may be necessary and convenient in accomplishing the object for which this corporation is granted, and may by their agents, surveyors, engineers and servants, enter upon all lands and tenements through which they may deem it necessary to make said road, and to survey, locate and contract for the land or right of way with the owners; in case they belong to the estate of a deceased person, or a minor or minors, or persons *non compos mentis*, then with the executor, administrator or guardian, of such minor or minors, or *non compos*, or in case said lands should be held by trustees of school sections or other trustees, then with such trustees, and said executors, administrators, guardians and trustees, are hereby rendered competent for such estates or minors, to contract with said company for the right to use, occupy and possess the lands of such estates, minors or beneficiaries, so far as may be useful for purposes of said railroad, and their act and deed shall pass the title in said lands, in the same manner as if it was made or done by a legal owner of full age; and such executor, administrator, guardian or trustee, shall account to those interested for the amount paid in pursuance of such compensation or agreement; and if said company and parties representing lands prefer, they may refer the question of compensation

Judgment.

Right of way.

Executors.

to arbitrators, mutually chosen, whose award, or that of their umpire, in case of disagreement, shall vest titles according to its terms.

SEC. 10. *Be it further enacted*, That if said company cannot agree with the owners of land, or with the executor, administrator, or guardian, the clerk of the circuit court, where the land lies, on the request of the company, is required to issue a writ of *ad quod damnum*, commanding the sheriff, that without delay, he cause a jury of six good and lawful men, to be upon such land, on a day to be by said sheriff fixed and appointed, and of which it shall be his duty to notify the owner, executor, administrator or guardian, or trustee, at least five days previously, if they be within his county, or if not, or if the party is unknown, the notice shall be given by advertisement, to be by said sheriff posted and fixed at three or more conspicuous places, at least five days before said appointed day, and by advertisement in some newspaper published in said county, at least three weeks prior to said day, by weekly insertions, and then cause the jury, after having been duly sworn and qualified by the sheriff or justice of the peace, to make true enquiries of damages that will be sustained by such owner's estate, by making said road through such lands. If any such juror shall fail to appear, or by reason of challenge for cause or otherwise, fail to sit on said inquest, the sheriff may fill said jury from the by-standers, and if the jury fail to render a verdict, the sheriff shall again, on the same or a subsequent day, empanel a new jury or jurors, until a verdict be had, such verdict and inquest, regularly certified by said sheriff, shall be returned to the office of the clerk of the circuit court of the county in which the land lies, and there remain among the records; and such verdict shall vest in the company, the right to occupy and use such land for the purpose of said railroad, on the payment or tender of payment of the damages assigned against said company, and in case of persons absent or unknown, as aforesaid, placing the amount of such damages to the credit of the owner, in the hands of the judge of probate of the county where the land lies, and such judges shall be liable on their bonds to make due payment of said money on demand.

SEC. 11. *Be it further enacted*, That the jurors trying said cause shall, before they proceed to the determination thereof, take an oath to make true inquest of the damages that will be sustained by such owner of said estate by reason of making such railroad through said owners' land,

which said oath shall be administered by the sheriff or his deputy.

SEC. 12. *Be it further enacted,* That the work of survey, locating and constructing said road, shall in nowise be hindered or delayed on account of the proceedings had as aforesaid.

Injury.

Complaint.

SEC. 13. *Be it further enacted,* That in case any person shall wilfully injure or obstruct said railroad in any degree, he shall forfeit and pay to the president and directors, of said company, three times the amount of damages they may sustain in consequence thereof, to be sued for and recovered, in the same manner as provided for by law for individuals in like cases, and on complaint made to any magistrate, it shall be the duty of said magistrate to bind the person or persons so offending, with sufficient security for his or their good behaviour for a period not less than one year, and he shall also be subject to indictment, and may be punished by imprisonment not less than three nor more than six months, in the county jail, at the discretion of the judge.

Stream.

SEC. 14. *Be it further enacted,* That whenever it shall be necessary for the construction of their railway, to intersect or cross any stream, or any road, it shall be lawful for the company to construct across or upon the same, but said company shall restore the stream or road to its former state, or in a sufficient manner not to impair its usefulness, and in all cases when any road or public highway is so located that the road cannot be judiciously located across or upon the same without interfering therewith, in such case or cases, said corporation may, by their engineer, cause such roads to be changed or altered in such manner, that said railroad may be made on the best site of ground for that purpose: *Provided,* Such road shall be put by said corporation in as good repair as at the time of changing the same.

Tolls.

SEC. 15. *Be it further enacted,* That after the completion of said road or any part thereof, the said president and directors may levy and collect tolls thereon from all persons, property, merchandise, and other commodities, transported thereon: *Provided,* That said railroad shall be commenced within three years and completed within ten years from the passage of this act.

APPROVED, February 4, 1858.

[No. 158.]

AN ACT

Explanatory and declaratory of the meaning and intention of the 12th section of the act incorporating the Girard and Mobile Railroad company ; amending the same.

WHEREAS, It was intended by the 12th section of the act incorporating the Girard and Mobile Railroad company, that after the damages for the right of way had been assessed and a tender of the money had been made by the company, the work should proceed "as" if no objection had been made, but the word "as" having been inadvertently omitted, leaves the section ambiguous. Right of way.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the said 12th section be amended by inserting the word "as" between the words "work" and "if," and that after the damages have been assessed according to the provisions of said section, and a tender of the amount *bona fide* made to the claimant, it shall be lawful for the company to proceed with the work. Damages.

APPROVED, February 8, 1858.

[No. 159.]

AN ACT

To incorporate the Selma and Gulf Railroad company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That John W. Lapsley, Willis S. Burr, John E. Prestridge, Benjamin Saffold, William T. Minter, D. C. Smiley, James Saffold, William Rumph, G. B. Bibb, F. A. Lee, of the county of Dallas; J. L. Benson, J. A. Crook, William Gully, William Jones, jr., J. D. Fox, J. R. Hawthorne, of the county of Wilcox; J. S. Andrews, J. J. Bradley, S. W. McCreary, W. H. Rodgers, J. J. Longmire, James Lett, J. A. Kobb, of the county of Monroe; Joseph Soles, L. D. Moorner, S. R. Smiley, T. A. Carson, of the county of Lowndes; Robert Yeldell, Jonathan Yeldell, John Barge, of the county of Butler; John Green, Hezekiah Donald, Joe McCreary, W. H. Ashley, of the county of Conecuh,

Power. be, and they are hereby appointed commissioners to open books, and receive subscription to the capital stock of the company by this act authorized, and to be incorporated under the name of "The Selma and Gulf Railroad company;" and any two or more of said commissioners shall have power to perform all the acts authorized to be done by said commissioners as a whole.

Capital. SEC. 2. *Be it further enacted,* That the commissioners aforesaid shall, at such time or times, place or places, as they may appoint, open books of subscription to the capital stock of said company, and receive all subscriptions to said stock which may be offered, on giving such public notice of the opening of said books as the commissioners acting may deem proper. The capital stock of said company shall be one million of dollars, and may be increased, from time to time, by the board of directors of the company to any sum not exceeding the cost of the road and its equipments by this company proposed. Said capital stock shall be divided into shares of one hundred dollars each. The subscription to the stock of said company, to be received by said commissioners, shall be made payable to said company in its corporate name, and shall be payable at such time or times, and in such installments, and in such manner, as the board of directors of the company, after its organization, may require: *Provided,* that the commissioners may, if they deem proper, annex to the subscription to be received by them a condition, providing that not exceeding five per cent. of such subscription shall be payable until the whole amount of subscription to be *bona fide* made, previous or subsequent to the organization of the company, shall amount to a specified sum, not to be less than one hundred and fifty thousand dollars.

Provided. SEC. 3. *Be it further enacted,* That when as much as one hundred thousand dollars, or more, shall have been subscribed to the stock of said company, said commissioners shall cause notice thereof to be given, by publication in such newspapers as they may deem best, notifying the subscribers to assemble at such time and place as they may appoint, to elect a board of directors, which notice shall be published as much as two consecutive weeks before the time appointed for the assembling of the stockholders. If at the time and place appointed, a majority of the stock subscribed for should be duly represented, an election for directors of the company shall be held; but if a majority of the stock should not be represented, the election shall be postponed until a majority of the stock shall be represented by stockholders in person, or by their authorized agent, or agents. All

Election.

elections for directors shall be by ballot, and every stockholder, in all elections for directors, and all matters acted on by the stockholders in convention, shall be entitled to one vote for every share of stock owned. Any stockholder may be represented by proxy, or agent appointed in writing for that purpose. Executors and administrators, and guardians, will, in all cases, represent their testator, or intestate, or ward, in person or by proxy. The board of directors shall ^{Proxy.} consist of seven stockholders, (including the president, to be chosen by the board, from their own members;) but the company shall have power, at any time after the first election, to increase or diminish the number of directors, as may be desired. The commissioners acting shall be judges of the first election of directors, and their certificate shall be sufficient evidence of the election held under their inspection. On the election of directors, the commissioners shall ^{Books.} deliver to the board of directors all books of subscription to the stock of the company, and on election as aforesaid, said company shall be deemed as organized; and the subscribers to the stock of the company, their future associates and successors shall be and become a body corporate and politic, and have continual succession as such, under the name of the "Selma and Gulf Railroad company," and in and by that name may sue and be sued, plead and be impleaded, contract and be contracted with, have, use, renew, and alter at pleasure a corporate seal, and exercise all the rights and privileges authorized by this act, and all that may be necessary for the proper purposes of the company.

SEC. 4. *Be it further enacted,* That a plurality of the votes duly given at any election for directors shall elect, until the company shall otherwise direct; and the company may, at any time, by resolution, alter this rule, so as to require a majority of all the votes given at any election of directors to ^{Rule.} elect. A board of directors shall be chosen annually, at such time and place as the company or the board of directors may appoint; and the first and all subsequent boards shall remain in office until the election of their successors. Every board of directors shall select one of their members to act as president of their board, and of the company. The president shall hold his office for one year, or until the election of his successor. The board of directors shall have power to fill all vacancies which may occur in their body, and in the office of president; and may, when deemed ^{Vacancies.} necessary, (from absence or sickness of the president) appoint a president *pro tempore*, to act during such absence or sickness of the president; and may make such appointments

from their own body, or from the body of the other stockholders. A majority of the directors, including the president, or president *pro tempore*, shall constitute a board and quorum for all purposes.

SEC. 5. *Be it further enacted*, That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper touching the disposition and management of the stock, property, estates, and effects of said company, not contrary to this charter, or the laws of this State, or of the United States, the transfer of shares, the duties and conduct of their officers, and servants, touching the meeting of directors, and all matters whatsoever which may appertain to concerns of said company. Said company is also hereby authorized to purchase, receive, and hold such estate as may be necessary and convenient in accomplishing the object for which this incorporation is granted, and may, by their agents, surveyors, engineers, and servants, enter upon all lands and tenements through which they may deem it necessary to make the road by this act authorized, or upon which it may be necessary to erect depots, warehouses, machine shops, wharves, engineer houses, water stations, wood sheds, platforms, and other requisite buildings and structures for the business of the road, and upon lands that may be necessary for cuttings and embankments, for necessary turn-outs and stations, and for stone, gravel, earth, and timber, and to survey, lay out, and construct the same, and to agree and contract for said lands, to be used as aforesaid, with the owners thereof. In case the said lands belong to the estate of any deceased person, then with the executor or administrator of such; in case of the same belonging to a minor or a person *non compos mentis*, then with his or her guardian or guardians; or in case said lands be held by trustees of school sections, or other trustees of estates, then with such trustees; and the said executors, administrators, guardians, or trustees, are hereby declared competent for such estate or minor, to contract with said company for the right to use, occupy, and possess the lands of such estates, minors or trustees, to be used as aforesaid, and the act and deed of such executor, administrators, guardians, or trustees in relation, shall pass the title in said land in the same manner as if the said deed or act was made or done by a legal owner of full age, and such executor, administrator, guardian, or trustee, shall account to those interested upon their respective bonds for the amount paid him in pursuance of such agreement and composition; and if the said company and parties re-

By-laws.

Estate.

Depots.

Title.

presenting lands prefer, they may refer the question of arbitration to arbitrators mutually chosen, whose award, or that of their umpire in case of disagreement, shall vest title according to its terms.

SEC. 6. *Be it further enacted*, That the provisions of sections 10, 11, 12, 13, and 14, of an act to incorporate the Mobile and Great Northern Railroad company, passed February 15, 1856, be and the same are hereby declared to be a part of this charter.

SEC. 7. *Be it further enacted*, That the operations of said railroad company, in surveying, locating, and constructing the road, or other work, shall in no wise be delayed or hindered on account of the parties not readily agreeing as to the terms upon which the right of way for said road, and all its fixtures and structures, or materials for its construction may be had; and in all arbitrations in relation to these matters it shall be the right and duty of the arbitrators in determining the damage to any party by reason of the construction of the road, to take into the account the value and benefits that may accrue to the party claiming damages by reason of the construction. Right of way

SEC. 8. *Be it further enacted*, That whenever it shall be necessary for the construction of their railroad, or ways to intersect or cross any stream or water course, or any road or highway, it shall be lawful for said company to construct across or upon the same; but the said company shall re-establish said stream or water course, road or highway, thus intersected in such a manner as not to impair its usefulness, and in all cases where any road or public highway is so located that said railroad cannot be judiciously laid out and constructed across upon the same without interfering therewith, in such case, or cases, said corporation may, by their engineer, cause such road or roads to be changed, or altered in such manner that said railroad may be made on the best site of ground for that purpose: *Provided*, said corporation shall put such road in as good repair as at the time of changing or altering the same. Cross.

SEC. 9. *Be it further enacted*, That the said Selma and Gulf Railroad may cross the Alabama river at some point at or near the city of Selma, with a bridge, or any other description of work, so that it may have connection with the other railroad terminating at Selma: *Provided*, that the navigation of said river shall not thereby be obstructed, or in any way impeded. Bridges.

SEC. 10. *Be it further enacted*, That after the organization of the company, as hereinbefore provided, the board of di-

Capital,

rectors shall have power to receive further subscriptions to the capital stock of the company as may be deemed best to any amount not exceeding the capital stock of the company, which subscriptions shall be payable in such manner and time, and in such form, and upon such terms and conditions as the board of directors may authorize, and the said board of directors may require all subscriptions made, both before and after said organization, to be paid at such time, or times, and in such installments as they may deem proper, not inconsistent with the terms of subscription, and, on failure, all refusal of any stockholders to make payment as required, the shares of the delinquent stockholder may be sold at public auction to the highest bidder, for cash, under such rule as the board of directors may prescribe, and apply the proceeds, or so much as may be required, towards the payment of the indebtedness of the stockholder, including interest that may be due thereon, paying the remainder, if any, to the stockholder whose stock shall have been sold:

Provided,

Provided, That before any sale, at least ten days' notice shall be given by advertisement thereof in some newspaper published in the county in which the sale may be made, and nothing in this section shall be so construed as to release the stockholder whose stock may be sold, from his objection to pay the balance which may remain unpaid on his subscription, after the sale of the stock, or any portion thereof.

Notice,

SEC. 11. *Be it further enacted*, That when any portion of the stock subscribed to said railroad company shall be called for by the direction of the board of directors, and notice of said call shall have been given for more than thirty days, that such call has been made, and specifying the per centum of stock so called for, and the time when payment is required, either by personal notice to the stockholder, or publication in some newspaper published in the county in which the stockholder may reside; if any stockholder shall fail to pay the call so made, at the time required, such stockholder may be proceeded against, by a motion made in the circuit court of his county for the amount of stock so remaining unpaid, which motion shall be in writing, signed by an attorney at law, and shall set forth the call so made, the notice given, the amount of stock subscribed by said stockholder, and the amount remaining unpaid upon such stock so called for, and the term of the court at which the motion will be made; the sheriff of the county shall serve the notice, and make his return thereon, and for his services shall be entitled to the same fees that are allowed to sheriffs for like services in the execution of summons and complaint under

Attorney at law.

the general law; the clerk shall docket the cause in its proper order, and for his services in the case shall be allowed the same fees to which he is entitled for like services in other cases under the general law. If notice of the motion so made is executed more than twenty days before the term of the circuit court to which it is returnable, the case shall stand for trial at the first term after issuance; if executed within twenty days before such term, it shall not stand for trial until the next ensuing term of such court. All the rules of pleading and evidence applicable to actions of assumpsit under the code of Alabama, are applicable to proceedings under this section of this act, except that the certificates of the secretary of said company, accompanied with the seal of said company, shall be evidence of the organization of the company, of the by-laws, rules and regulations, and of the proceedings of the company, of the calls made from time to time by the action of the directors of the company, and of the amount subscribed to the stock thereof by any stockholder, and the amount due and unpaid on such subscription at the time such call was made, or became due; and upon the production of such certificate, if no plea is entered by way of defence, or if the plea is withdrawn, the court hearing such motion shall enter judgment final, by default, or *nil dicit*, as the case may be, for the amount so certified to be due, with interest thereon. Such certificate shall be evidence on the trial of any issue joined upon such motion, unless the defendant makes oath at the time of filing his plea, that he believes the plea to be true, and give notice that other evidence will be required; but in all cases the defendant may adduce lawful proof to contradict such certificate. All issues of fact joined upon such motion are to be tried as other civil actions, by jury.

Notice of motion.

Certificate.

Plea.

SEC. 12. *Be it further enacted*, 'That for the purpose of raising funds, from time to time, for the construction of said road, and the purchase of iron and other materials to be used thereon, said company are hereby authorized to issue, negotiate, pledge, hypothecate and sell its bonds, in sums and at rates of interest which may be deemed most expedient by the board of directors. The payment of the principal and interest of the bonds to be secured as the board of directors may think best; and for the security of any obligation, contract or undertaking of the company, the board of directors shall have power to pledge, by resolution, or deed of trust, or mortgage, at their option, in such form, and with such conditions, as they may deem pro-

Funds.

Payment.

per, all the property, means, rights, and franchises of the company.

Officers.

SEC. 13. *Be it further enacted*, That the board of directors of said company shall have the power to appoint all officers and agents of the company, or who may be required about the business of the company, and to define the duties and powers of any officer, or agent so appointed, and to fix their rate of compensation, and the term of their office or appointment, except the office of president.

Survey.

SEC. 14. *Be it further enacted*, That said company is hereby authorized and empowered to survey, locate, construct, complete, alter, maintain, and operate a railroad, with one or more tracks, or lines of rails, from the city of Selma to a point on the line of the Alabama and Florida Railroad, and also to connect with the Mobile and Great Northern Railroad, or with the Girard and Mobile Railroad, or with the Montgomery and Pensacola Railroad, or any other railroad on the south and east side of the Alabama river, on such route or routes as may be deemed most expedient, and to transport, take and carry property and persons upon said railroad, or ways, by the power and force of steam, of animals, or of any other mechanical, or other power, or any combination of them which said company may choose to apply; and for the purpose of constructing said railroad, or ways, the said company is hereby authorized to lay out its roads throughout their length not exceeding one hundred feet wide, and for the purpose of depots, machine shops, warehouses, water stations, and wood sheds, and other buildings necessary for the business of the road, cutting embankments, and for the purpose of necessary turnouts, and for obtaining stone and gravel, may take as much more land as may be necessary for the construction and security of said road, or ways, with permission to make any lawful contract with any other railroad corporation in relation to the business of said company; and also to make joint stock with any other railroad corporation.

Depote. &c.

Three years.

SEC. 15. *Be it further enacted*, That the company shall commence the construction of their railroad within three years from the date hereof, otherwise this charter shall be forfeited.

Toll.

SEC. 16. *Be it further enacted*, That the directory shall have power to establish such rates of toll for the conveyance of persons and property upon the railroad as they shall from time to time deem proper, and to levy and collect the same for the use of said company.

SEC. 17. *Be it further enacted*, That the stock of said com-

pany shall not be subject to taxation until a dividend of profits shall be declared thereon.

APPROVED, January 30, 1858.

[No. 160.]

AN ACT

To incorporate the Marshall and Jackson Counties Rail Road company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Robert T. Scott, William R. Larkins, Jacob Gross, Joel P. Lelletter, of Jackson county, and Little D. Baskart, Percival M. Bush, and James Lamar, of Marshall county, or such of them as shall accept this charter, with their associates successors and assigns, are constituted a body politic and corporate, by the name of the Marshall and Jackson Counties Rail Road company, and by that name to sue and be sued, to plead and be impleaded, in any court in this State, to make and have a common seal, and the same to break, alter and renew at pleasure; and said corporation is hereby vested with all powers, privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this act; and said company is hereby authorized and empowered to locate, construct and finally complete a single or double rail road, or way, from some suitable point at or near Gunter's landing, where the Tennessee and Cossa Rail Road taps the Tennessee river in said county of Marshall, to some suitable point of intersection of the Memphis and Charleston Rail Road, within the limits of the said county of Jackson, and to transport, take, or carry property, or persons, upon said road by force of steam, or animal, or any other power, or of any combination of them, which said company may ^{with} choose to apply; and for the purpose of constructing said rail road, or way, the said company is hereby authorized to lay out their road not exceeding one hundred feet wide, through the whole length, and for the purposes of depots, cuttings and embankments, and for the purpose of necessary turnouts, and for obtaining stone and gravel, may take as much more land as may be necessary for the construction and security of said road, with permission to make any

Provided, lawful contract with any other rail road corporation, or person, in relation to the business of said first named corporation, and also to make joint stock with any other rail road corporation: *Provided*, That all damages that may be occasioned to any person, by taking of any such land, or material, as aforesaid, shall be paid for by said first named corporation, in manner hereinafter provided.

Capital. SEC. 2. *And be it further enacted*, That the capital stock of said company shall not exceed five hundred thousand dollars, to be divided into shares of twenty-five dollars each, which shares shall be deemed personal property, and be transferred in such manner, and at such places, as the by-laws of said company shall direct: *Provided*, That said company may commence the construction of said road, with all the powers and privileges contained in this act, whenever the sum subscribed to the capital stock shall be fifty thousand dollars.

Payment. SEC. 3. *And be it further enacted*, That payment of the subscription to the stock in said rail road may be made in the materials, labor, provisions, and all and every thing necessary for the construction of said road, which the board of directors, at their discretion, may deem expedient to accept.

Open books. SEC. 4. *And be it further enacted*, That the persons named in the first section, or a majority of them, shall open books to receive subscriptions to the capital stock of said company at such times and places as they, or a majority of them, may appoint, and they shall give such notice of the times and places of opening said books as they may deem reasonable, and shall receive such subscriptions, under such regulations, as they may adopt for the purpose.

Directors. SEC. 5. *And be it further enacted*, That the immediate government and direction of the affairs of said company, shall be vested in a board of nine directors, who shall be chosen by the stockholders of said company, in the manner hereinafter provided, and shall hold their office until others are duly elected and qualified to take their places as directors; and the said directors, five of whom, the president being one, shall be a quorum for the transaction of business—shall elect one of their number to be president of the board, who shall also be president of said company; they shall also choose a secretary, and such other officers as they may deem necessary, and a treasurer who shall give bond with security to said company, in such sum as said directors may require, for the faithful discharge of his trust.

SEC. 6. *And be it further enacted*, That the persons au-

thorized by the fourth section of this act to open the books for subscription to the capital stock of said company, are hereby authorized; after the books of subscription to the capital stock of said company are closed, or when the sum subscribed shall be fifty thousand dollars, to call the first meeting of the stockholders of said company in such way, and at such time and place as they may appoint, for the choice of directors of said company, and in all meetings of the stockholders of said company, each share shall entitle the holder thereof to one vote, which vote may be given by said stockholder in person, or by lawful proxy; and the annual meetings of the stockholders of said company for the choice of directors, shall be holden at such time and place, and upon such notice, as the said company in their by-laws may prescribe.

Books closed.

SEC. 7. *And be it further enacted*, That in case it should so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, said company shall not, for that cause, be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors of said company, and said directors shall have power to fill any vacancy which may occur by death, resignation, or otherwise.

By-laws.

SEC. 8. *And be it further enacted*, That the directors shall have full power to make and prescribe such by-laws, rules and regulations as they shall deem needful and proper, touching the disposition and management of the stock, property, estate and effects of said company, not contrary to this charter, or the laws of this State, or of the United States, the transfer of shares, the duties and conduct of their officers and servants, touching the election, of meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company; said company is also hereby authorized to purchase, receive and hold such estate as may be necessary and convenient in accomplishing the objects for which this incorporation is granted, and may, by their agent, surveyors, engineers and servants, enter upon all lands and tenements, through which they may deem it necessary to make said road, and to survey, lay out and construct the same, and to agree and contract for the land, or right of way, with the owners, through which they may intend to make said road; in case said lands belong to the estate of any deceased person, then the executor, or administrator of such; or in the case of the same belonging to a minor, or a person *non compos mentis*, then with his or her guardian, or guardians; or in case said lands be held by

Transfer.

Right of way.

Minors.

trustees of school sections, or other trustees of estates, then with such trustees; and the said executors, administrators, guardians and trustees are hereby declared competent for such estate, or minors, to contract with said company for the right to use, occupy and possess the lands of such estates, minors, or trustees, so far as may be useful or necessary to the purposes of said road; and the act and deed of such executors, administrators, guardians, or trustees, in relation thereto, shall pass the title in said land in the same manner as if the said deed or act was made, or done, by a legal owner of full age, and such executor, administrator, guardian, or trustee, shall account to those interested upon their respective bonds, for the amount paid them in pursuance of such agreement and composition; and if the said company and parties representing lands prefer, they may refer the question of compensation to arbitrators, mutually chosen, whose award, or that of their umpire, in case of disagreement, shall vest title according to its terms.

Clerk.

SEC. 9. *And be it further enacted,* That if said company cannot agree with the owner of the land, through which they desire said road to pass, or with the executor, administrator, guardian, or trustee, it shall and may be lawful for the clerk of the circuit court of the county in which said land lies, on the applicant of said company or its agents, and he is required to issue a writ of *ad quod damnum*, commanding the sheriff that, without delay, he cause a jury of six good and lawful men to be upon such land, upon a day to be fixed and appointed by said sheriff, and it shall be his duty to give notice to the owners, executor, administrator, guardian, or trustee, at least five days before said day, if they be within his county: or if not, or if the owner, or owners, be unknown, then notice shall be given by advertisement, to be by said sheriff posted and fixed at the dwelling house, if such there be, or on a public or conspicuous place, at least five days before such appointed day, and also by advertising the same in some newspaper published nearest the land, at least three weeks, by weekly insertions, prior to said day; and then cause said jury, after being duly sworn by said sheriff, or justice of the peace, to make true inquest of the damages, that will be sustained by such owner, or estate, by reason of making said road through such land; if any such juror shall fail to appear, or by reason of challenge for cause, or otherwise fail to sit on said inquest, the said sheriff shall fill said jury from the bystanders, and if they fail to render a verdict, the said sheriff shall again, on the same day, or a subsequent day, empanel a new jury,

Justice of Peace.

Jury.

or jurors, till a verdict be had; such verdict and inquest, regularly certified by such sheriff, shall be returned to the office of the clerk of the circuit court of the county in which said land may lie, and there remain among the records; and such verdict shall vest in said company the right to occupy and use such land for the purposes of said rail road, on the payment, or tender of payment, of the damages thereon, assessed against said company, and in case of persons absent, or unknown, as aforesaid, the placing of the amount of such damages to the credit of the owner in the hands of the judge of the probate court of the county in which said lands may lie, shall be deemed and taken as payment, and such judges shall be liable on their bonds to make due payment of said money on demand.

Verdict.

SEC. 10. *And be it further enacted*, That it shall be the duty of the sheriff to appoint and hold said inquest within ten days after the receipt of said writ of *ad quod damnum*, except in cases of absence aforesaid, in which case thirty days shall be allowed him, and five days in addition are allowed him for every additional jury which he may have under said writ, and for every default therein the said sheriff shall be fined by the circuit court, at the instance of either party, not less than twenty nor more than one hundred dollars, and every juror and witness summoned shall be fined not less than ten dollars for non-attendance; of all such fines, as well as costs, the circuit court of the county shall have jurisdiction. There shall be allowed the following fees to the clerk of the circuit court: for every writ of *ad quod damnum*, seventy five cents; for receiving and filing inquest, seventy-five cents; to the sheriff for giving notice, seventy-five cents, besides printers' fees not exceeding two dollars; and for summoning witnesses, twenty five cents each; to jurors, seventy-five cents per diem, each, which fees are not allowed until a verdict be returned and filed, and shall be taxed in the bill of costs and paid by the company: *Provided, however*, That before the application for said writ, the said company make a tender to the owner or owners of any such land, a sum of money by them deemed equivalent to the damages to be sustained, and upon refusal to accept the sum tendered; and a verdict for the same amount or a less sum, the costs shall be taxed to, and paid by, the owners of the land upon which inquest is held.

Ten days after.

Default.

Provided.

SEC. 11. *And be it further enacted*, That said company is hereby authorized to construct, erect, build and use a single or double railway, or road, of suitable width and di-

Double railway.

Privileges.

mensions, to be determined by the directors of said company on the line or course by them designated, and also under the same rules, regulations and restrictions, and with the like privileges and immunities as are herein granted to the main rail road, to build and construct branch rail roads on either side of the main road, not exceeding five miles; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the same, and shall have power to erect and maintain toll houses and other buildings, for the accommodation of their concerns, as they may deem suitable for their interests.

Cross.

SEC. 12. *And be it further enacted*, That whenever it shall be necessary for the construction of their single or double rail road, or way, to intersect or cross any stream of water, or water course, or any road or highway, it shall be lawful for said company to construct across or upon the same; but the said company shall restore the said stream or water course, or road or highway, thus intersected, to its former state, or in a sufficient manner not to impair its usefulness; and in all cases when any road or public highway is so located that said rail road can not be judiciously laid out and constructed across, or upon the same, without interfering therewith, in such case, or cases, said corporation may, by their engineer, cause such road, or roads, to be changed, or altered, in such manner that said rail road may be made on the best site of ground for that purpose: *Provided*, Said corporation shall put such road in as good repair as at the time of changing or altering the same.

Provided.

Toll.

SEC. 13. *And be it further enacted*, That it shall be lawful for the company, hereby incorporated, from time to time to fix, regulate and receive the toll and charges by them to be received for transportation of persons or property, on their rail road, or way, aforesaid, hereby authorized to be constructed, erected, built, or used, or upon any part thereof.

Misdemeanor.

SEC. 14. *And be it further enacted*, That if any person, or persons, will or shall wilfully do, or cause to be done, any act or acts whatsoever, whereby any buildings, construction, or works of said company, or any engine, machine, or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person so offending shall be deemed guilty of a misdemeanor, and shall forfeit and pay to said company double the amount of damages sustained by reason of such offence, or injury, to be recovered in the name

of said corporation with costs of suit instituted for that purpose.

SEC. 15. *And be it further enacted*, That the directors of said company may require the payment of the sum or sums subscribed to the capital stock of said company, at such times and in such proportions, and upon such conditions, as they may deem fit; and in case any stockholder shall fail or neglect to make payment pursuant to the requisition of the board of directors, the stock of such stockholder, or so much as shall be necessary, may be sold by the directors of said corporation, at public auction, after the lapse of ninety days from the time which the payment became due, and the surplus money, the avail of such sales, after deducting the payment due and the interest thereon, and the necessary expenses of sale, shall be paid over to such delinquent stockholder. Capital.

APPROVED, February 5, 1858.

[No. 161.]

AN ACT

Amendatory of the several plank road charters herein designated.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act the stockholders of the Central Plank Road company, and the stockholders of the Montgomery and Wetumpka Plank Road company, are hereby authorized and empowered so to change their respective road beds as to dispense with planking the same, except over such portions as, from the character of the soil, demand planking or graveling, and in lieu thereof to convert such roads into turnpike, or first class dirt roads. Plankroad.

SEC. 2. *Be it further enacted*, That any of said roads adopting the change indicated in the foregoing section, shall keep in good repair all necessary bridges and culverts on such road, and for a failure to do so shall be liable to pay all damages that any person, or persons, may sustain in passing over such bridges or culverts, so long as toll is demanded on such road. Bridges.

SEC. 3. *Be it further enacted*, That when either of said

Toll-gates.

roads shall have been put in good repair, the president and directors of any such company shall be authorized to erect one or more toll-gates, and to charge such toll as may, from time to time, be fixed by the court of county commissioners of Coosa county.

Condition.

SEC. 4. *Be it further enacted*, That previous to demanding tolls herein authorized, the company so converting either of said plank roads into a plank or turnpike road, shall apply to the judge of probate of the county in which said road is located, to appoint three discreet reviewers, near the line of such road, who shall examine and report on the condition of such road; and if the said reviewers report the same in good condition, then the said judge of probate shall issue an order to any such company to demand the tolls herein designated; and for appointing reviewers and issuing order for collection of tolls, the company so applying shall pay to the judge of probate of each county the sum of two dollars, and to each of the reviewers the sum of two dollars per day for their services.

Higher tolls.

SEC. 5. *And be it further enacted*, That if either or both of the above named roads shall, in whole or in part, be converted into a macadamised road, the commissioners' court of the county through which such road shall pass, is hereby vested with power to authorize the collection of higher tolls, which rates shall be fixed by the court, and to correspond, as near as may be, with the improvements of the roads: *Provided*, That the provisions of this act shall not extend to that portion of the road which extends into Talladega county.

APPROVED, February 6, 1858.

[No. 162.]

AN ACT

To extend the corporate limits of Salem, Russell county.

Limits.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the corporate limits of the town of Salem, in Russell county, be and they are hereby extended so as to embrace therein all the land lying within one mile of the public well in said town, east, west, north and south, and every direction from said public well

SEC. 2. *Be it further enacted*, That the corporate authorities of the said town of Salem be, and they are hereby authorized to enact such by-laws as they may deem necessary By-laws. to prevent the sale of ardent spirits, in any quantity, within the corporate limits of said town of Salem, Russell county, any law or usage to the contrary notwithstanding.

APPROVED, February 6, 1858.

[No. 163.]

AN ACT

To amend the several acts incorporating the town of Tusculumbia, in Franklin county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the sub-division of the said town of Tusculumbia into wards be abolished; and instead of a mayor and eight aldermen, as provided in the existing acts, there shall be elected, by the qualified voters of said town, at the annual election, a board of five aldermen, who shall elect from amongst themselves a mayor, making the corporate authorities to consist of one mayor and four aldermen. Mayor.

SEC. 2. *Be it it further enacted*, That the election of town constable shall not, as heretofore, be by the votes of the people of the town, but the mayor and aldermen shall have power to appoint a constable, from time to time, as they shall see fit, and discharge him at their discretion. Constable.

SEC. 3. *Be it further enacted*, That this act is to take effect from the date of its passage: *Provided, however*, That the present board of "mayor and aldermen" shall continue in office till 1st Monday in April next, when they shall hold and superintend the election of their successors, in pursuance of this act. Provided.

SEC. 4. *Be it further enacted*, That all acts and parts of acts, conflicting with the foregoing, are hereby repealed. Repealed.

APPROVED, February 8, 1858.

[No. 164.]

AN ACT

To amend the several acts incorporating the town of Florence, in the county of Lauderdale.

Power.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the mayor and board of aldermen of said town shall have the power to open any new street, or to change any existing street in said town.

SEC. 2. *And be it further enacted,* That in the opening of any new street, or the changing of any street now opened, or as laid down in the original plan of said town, the said mayor and board of aldermen shall be controlled and governed by sections 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, and 1442, of part 2, title 2, chapter 2, of the Code of Alabama, so far as they can be made applicable to such cases; and the said mayor and board of aldermen shall be entitled to all the rights and privileges granted in said sections to private corporations.

Meeting.

SEC. 3. *And be it further enacted,* That from and after the passage of this act, the mayor of the town of Florence, and the constable of said town, shall be elected by the qualified voters of said town for aldermen, and said election shall take place at same time and place with that of aldermen.

SEC. 4. *And be it further enacted,* That at the next election for aldermen of the town of Florence, the qualified voters of said town shall elect eleven aldermen to serve for one year from the time of their election, and until their successors are qualified; and the said board of aldermen shall fix the salary of constable and mayor as required by law.

SEC. 5. *And be it further enacted,* That all laws and parts of laws, contravening this act, be and the same are hereby repealed.

APPROVED, February 6, 1858.

[No. 165.]

AN ACT

To amend "An act to incorporate the town of Claiborne."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the act to incorporate the town of Claiborne, Amended. passed December 20, 1820, be and the same is hereby amended so as to confer upon the corporate authorities of the said town all the powers, rights, privileges and immunities which are held and possessed by towns incorporated under the provisions of part 1, title 14, chapter 1, of the Code of Alabama.

APPROVED, February 3, 1858.

[No. 166.]

AN ACT

To amend the charter of the town of Orrville, in Dallas county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the charter of the town of Orrville, in Dallas county, be so amended as to make it unlawful for any person to sell intoxicating liquors within three miles of said town, except in good faith for medical purposes; and if any persons violates the provisions of this act, they shall be fined, upon conviction, not less than one hundred dollars for each offence. Amended.

SEC. 2. *And be it further enacted,* That the failure to elect the municipal officers of said town, at the times mentioned in the charter, shall not operate as a forfeiture of said charter; but any five householders of said town may call and hold an election for municipal officers, on ten days' public notice. Officers.

APPROVED, February 1, 1858.

[No. 167.]

AN ACT

To repeal an act entitled "An act to incorporate the town of Guntersville, in the county of Marshall."

Repealed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled "An act to incorporate the town of Guntersville, in the county of Marshall," approved February 3, 1848, be and the same is hereby repealed.

APPROVED, February 6, 1858.

[No. 168.]

AN ACT

To incorporate the Citronelle and McIntosh's Bluff Plank Road company.

Body corporate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That George L. Pearce, Joseph Borden, James A. Moore, R. R. Debahull and David Stodder, and their associates and successors in office, shall be constituted a body corporate, under the name and style of "the Citronelle and McIntosh's Bluff Plank Road company," for the purpose of constructing a plank road, not to exceed in width sixty feet, from the town of Citronelle, in the county of Mobile, by way of Sullivan's Bay, in the county of Washington, to McIntosh's Bluff on the Tombigbee river, in Washington county, by which name said company may sue and be sued, in all courts and any legal form of action, and may acquire, possess and hold in any lawful way, all such real and personal property as may be proper for the construction and maintenance of said road in good order, and said company may make and use a seal for the proper authentication of its acts and records.

Lands.

SEC. 2. *Be it further enacted,* That whenever said company shall be unable to agree with any owner of land through which said road may pass, or when said owner is a non resident, an infant, or of an unsound mind, upon the application of said company, its agent, or attorney, the sheriff of the county in which said land lies, shall summon a jury of seven disinterested persons, a majority of whom,

upon their oaths, to be administered by said sheriff, shall assess the damages, if any, to which such owner or owners may be entitled; which said verdict or assessment shall be received by the sheriff, and by him certified and filed with the judge of the probate of the county in which said land lies, who shall cause the same to be recorded in his office in the same manner as other conveyances of real estate, and the same shall operate in law as a conveyance of said property to said company, upon said company's paying or offering to pay any damages which may have been assessed, and for such services the sheriff shall be entitled to two dollars, and each of said jurors to one dollar per day, and the said judge of probate to one dollar for recording any verdict or verdicts of assessment or assessments made by any one set of jurors at the same time, to be paid by said company; and in case either party shall be dissatisfied, an appeal may be taken to the next term of the circuit court thereafter, holden in the county where said verdict or verdicts are recorded, on giving bond and security satisfactory to said probate judge, conditioned to prosecute the appeal to effect, and to pay all such costs and damages as may be awarded, but the construction of said road shall not be delayed or suspended pending such appeal.

Damages.

Bond.

SEC. 3. *Be it further enacted*, That if any person shall wilfully injure, or any way and manner obstruct said road he shall forfeit and pay treble damages to said company, to be sued for in any court of competent jurisdiction, and for any such wilful injury or obstruction the person so offending shall be deemed guilty of a misdemeanor, and subject to indictment, and on conviction, shall be imprisoned by the court not less than one nor more than six months.

SEC. 4. *Be it further enacted*, That after the completion of said road, or any section or part thereof, the said company may levy and collect tolls from all persons, property, merchandise or other commodity transported thereon, and for the purpose of regulating and transacting its affairs, said company may organize, if it deems it necessary, and from time to time abolish or change such organization in such manner as it may judge fit, and may make and repeal all such by-laws and rules for its own government and action, and for the preservation of good order and propriety and safety of travelers on said road, as it may deem proper and not contrary to law.

Tolls.

SEC. 5. *Be it further enacted*, That a tariff of tolls shall be annually established and published for the information of the public at each depot on said road, which shall not

Published.

Justice of peace.

be in any way increased during the ensuing year, and any person who shall travel on said road and refuse to pay the proper toll at the rates thus established, shall forfeit to the owners of the stock of said road the sum of ten dollars for each and every such offence, to be recovered in the corporate name of said company before any justice of the peace in the State of Alabama.

SEC. 6. *Be it further enacted*, That said road and all stock therein, shall in law be deemed and held as personal property in all respects.

SEC. 7. *Be it further enacted*, That the commissioners of the roads of the counties of Washington and Mobile, are hereby authorized to grant, and the said company to receive from said commissioners, any public highways in said counties on the route of said proposed road to be used for the purposes of said road.

Capital.

SEC. 8 *Be it further enacted*, That the capital stock of said company shall not exceed one hundred thousand dollars, the number and amount of shares to be determined by the corporators.

APPROVED, February 6, 1858.

[No. 169.]

AN ACT

To amend the charter of the Mobile Steamship company, and the act to provide for the incorporation of steamship companies.

Amended.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the charter of the Mobile Steamship company be, and the same is hereby amended, so that said company be, and it is hereby fully authorized and empowered to run and navigate any and all ships or vessels, it may now own, possess or charter to and from any port or ports it may see fit, for the space of two years from the passage of this act, and said company shall not be confined to Mobile as one of the termini of the voyages of its vessels.

APPROVED, January 20, 1858.

[No. 170.]

AN ACT

To amend "an act to incorporate the Marengo Plank or Covered Road company."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the company incorporated under the provisions of the above recited act, and organized under the same and the amendment thereto, be and they are hereby authorized and empowered, instead of continuing a plank or covered road from Macon, in Marengo county, to Uniontown, in Perry county, to continue and construct a plank or covered road from a point near Dr. Griffin's, via Spring Hill, Boddie's old plantation, F. S. Lyon's, David Minges', Dr. Thomas A. Harrison's, and Walker's steam mill, to Uniontown, on or near the public road now in use between Spring Hill and Uniontown; *Provided,* A majority of stockholders in public meeting assembled, vote so to change said route. Plank or covered road.
Provided.

SEC. 2. *Be it further enacted,* That the said company shall in the change hereby authorized, of the route of the said plank or covered road, be entitled to the same rights and privileges, and be allowed to charge the same rate of toll per mile as is authorized to be charged on the road authorized to be constructed from Demopolis to Uniontown, by way of Prairieville or Macon, and be subject to the same penalties and conditions as authorized by the law now in force relating to said company. Rights and privileges.

SEC. 3. *Be it further enacted,* That so much of the 4th section of the act to incorporate the Marengo Plank or Covered Road company as provides that the said company shall leave and keep open so much of the road as leads from Demopolis to the intersection of the Linden and Spring Hill road with the Prairieville road, be, and the same is hereby repealed, and the said road from Demopolis to such intersection is placed in all respects upon the same footing with the other portions of said road. Keep open.

SEC. 4. *Be it further enacted,* That said Marengo Plank or Covered Road company, be, and they are hereby authorized to extend the road as changed, or authorized to be changed by the provisions of this act, through the county of Sumter, to the lines between the States of Alabama and Mississippi, in the direction of Jackson in the latter State, for which purpose the capital stock of said company may be increased one hundred thousand dollars. Sumter.

SEC. 5. *And be it further enacted,* That said Marengo

Provided.

Plank or Covered Road company shall have and enjoy all rights, privileges and advantages to which they would be entitled if this extension and change of route, herein made or authorized, had formed a part of the original charter, and shall be subject to all restrictions contained in their original charter; *Provided*, That nothing in this act shall in any wise impair the obligation or liability of said company, its stockholders or corporators, on account of the money heretofore loaned by the State out of the trust funds to said company; *And provided*, That the assent of the securities to the bond heretofore given on the loan by the State to said company, be filed with the comptroller before this act takes effect.

APPROVED, February 6, 1858.

[No. 171.]

AN ACT

To incorporate the City of Eufaula.

Body corporate

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the town of Eufaula, in said State, shall hereafter be called the "City of Eufaula," and that the present and future inhabitants of said city, as by this act incorporated, shall be, and they are by this act made and constituted a body corporate and politic, under the name and style of "the City of Eufaula," under and by which name and style, and acting by and through the proper officers, of said incorporation, hereafter to be designated, all the corporate powers and privileges of said city by this act granted, shall be executed and carried into effect as required, and, under its corporate name aforesaid, the said city corporation shall sue and be sued, plead and be impleaded, answer and be answered unto, and may purchase, receive and hold, and sell, grant, alien and mortgage, assure or let property real or personal, may have and use a common seal, which may be changed at pleasure, and may do and perform all acts incident to such incorporations, not inconsistent with the laws of the State.

SEC. 2. *Be it further enacted*, That the said city shall consist of all the tracts, lots and parcels of land which are included within the following boundaries: Beginning at

the point where the Chewala creek empties into the Chattahoochee river, thence South, along said river, to the half section line of section (4) four, township (10) ten, range (29) twenty-nine, thence West, dividing said section (4) four and section (5) five to the East line of section (6) six, in same township and range, thence due North along said last named line, to the North West corner of said section (5) five, thence due West along the South line of section (31) thirty-one, in township (11) eleven, and range (29) twenty-nine, to the South West corner of said section, thence North along the West line of section (31) thirty-one, to the point where it intersects the first branch, thence down said branch to the Chewala creek, thence along said Chewala creek, South side, to its disgoring point into the Chattahoochee river, being the beginning point of this boundary.

Boundary line.

SEC. 3. *Be it further enacted*, That the government of said city shall be styled "The City Council of Eufaula," and shall consist of a chief officer, to be styled "Mayor of the City of Eufaula," and five common councilmen, each to be elected by the legal voters of the city, the person receiving the highest number of legal votes for the office of Mayor will be elected Mayor, and the five persons receiving the highest number of legal votes for councilmen will be elected councilmen. At the same time and place and in like manner will be elected one clerk and one marshal, to act as officers under and for the use of said city council. Every citizen of said city who would be a legal voter at an election for members of the Legislature, will be a legal voter at such elections for mayor and councilmen, clerk and marshal; *Provided*, He shall have been actually or legally a resident of said city for six months next preceding the election, and shall have paid his city or town tax, and not otherwise.

Style.

Clerk and marshal.

SEC. 4. *Be it further enacted*, That election of mayor and councilmen, clerk and marshal, of said city shall be held annually, but the said mayor and councilmen, clerk and marshal, for the time being, shall continue in office until their successors are duly chosen and qualified; and after the first election under this charter, the time and place of each succeeding election shall be determined by the said city council, and said council shall appoint managers of the elections, to consist of such number of persons as may be deemed expedient; and said city council shall have power to prescribe the mode in which all elections shall be conducted, the mode of returning and counting the votes, the votes to be returned to the existing mayor, and by him

Annual elections.

In case of a tie.

laid before the city council to be examined and counted. The said city council shall be the judges of all elections, and shall have full power to determine all matters in relation to all elections, as well as the mode of conducting elections and ascertaining the legality of the voters, and in the count shall reject all illegal votes and count such only as are legal. In the event that two or more persons should have an equal number of legal votes for the office of mayor, the common councilmen for the time being, duly qualified and acting, or a majority of them, shall determine which of said persons shall be mayor, and in case of a tie vote in the election of councilmen, the mayor for the time being, and a majority of the councilmen qualified and acting, and not interested in the decision to be made, shall determine which of the persons having the tie vote shall have the office. In case a vacancy should occur in the office of mayor, except by the expiration of the term for which the last mayor was elected, such vacancy shall be filled by the councilmen, and in case of any vacancy in the office of councilmen, except by the expiration of the term, such vacancy or vacancies shall be filled by the mayor and councilmen then acting.

By ballot.

SEC. 5. *Be it further enacted,* That the first election for mayor and councilmen, clerk and marshal, under this charter, shall be held under the direction and supervision of the intendant and council of the town of Eufaula, holding office at the time of ratification and acceptance of this charter, as hereinafter provided for, and said intendant and council shall prescribe the time and place and the mode of such first election, and shall be judges thereof, and a certificate shall be made and preserved, showing the number of legal votes polled for the different offices, and showing what person received the highest number of legal votes for the office of mayor, and the five persons who received the highest number of legal votes for councilmen, and in case of a tie vote, either for mayor or councilmen, clerk or marshal, the intendant or council of said town, or such portion of them as may not be interested in the question, shall determine who shall be mayor and who shall be councilmen, clerk or marshal, as the case may be; all elections for mayor, councilmen, clerk and marshal, under this act, shall be by ballot; no person shall be eligible to the office of mayor or councilman unless, in addition to being a qualified voter for these offices, he shall have resided in said town or city one year next preceeding the election.

SEC. 6. *Be it further enacted,* That the mayor and each councilman, before entering on the duties of his office, shall

make and subscribe an affidavit that he will faithfully and to the best of his skill and judgment, perform the duties assigned to him without favor or partiality, which affidavit shall be filed in the office of the clerk of said city.

SEC. 7. *Be it further enacted*, That the said city council shall have power and authority to pass all such by-laws as may be deemed necessary and proper for its own government, not inconsistent with the laws of the State, and the same to alter or repeal at pleasure; and shall have full power and authority to pass and enforce all ordinances deemed necessary and proper to prevent contagious or infectious diseases from being introduced or kept in said city, and to preserve the health of its inhabitants; to prevent and remove all nuisances at the expense of the person causing such nuisance, or upon whose property it may be found; to license, tax, regulate or restrain all shows and theatrical amusements, exhibitions and lectures, to prohibit and suppress gaming and gaming houses, and houses of ill-fame, within said city, to establish night watches and day watches and patrols, and to appoint leaders and captains thereof, to make, alter and ascertain new streets and alleys, to clear and keep in repair the streets and alleys, to establish necessary inspections, to erect and regulate markets and fix the assize of bread, to regulate the sales at auction and to appoint auctioneers; *Provided*, The same shall not extend to sales under execution by order of court, or by executors, administrators and mortgagees; to erect public scale houses with proper scales, weights and measures, and to appoint weighers and measurers, to weigh and measure in case of disagreement between buyer and seller, to license and regulate wagons, carts, and drays, and hacks, and carriages running from one part of said city to another part for hire, and generally to pass such by-laws and ordinances, not contrary to the constitution and laws of this State or of the United States, as said council shall from time to time deem necessary and proper, to carry into effect the true intent and meaning of this act, and the same to enforce, alter and repeal; *Provided*, That no purchase of real or personal estate or sale or mortgage of the same, above the amount of five thousand dollars, made by said mayor and councilmen, shall hold good and valid without a ratification of the same by a majority of the citizens of said city, at a special balloting held for the same. The said city council shall have power to fix the fees and salaries of the clerk and marshal, and to impose on them such fines for neglect of duty in office, not exceeding one hundred dollars, as they may

Antib. lly.

Proviso.

Salaries.

Fines.

deem necessary; in case of the temporary disability of the said officers, the said council shall be empowered to appoint substitutes in their place until their disability be removed. The said city council is also empowered to lay such fines, not exceeding fifty dollars, for breach or breaches of their by-laws or ordinances, as they may deem proper, and to enforce and collect the same in such manner as may be prescribed by ordinances, by execution against the person or property, or committing to jail, as they may deem necessary or proper, which fines shall be paid into the city treasury.

Tax.

SEC. 8. *Be it further enacted*, That the said city council shall have power and authority annually to assess, levy and collect, within its limits, all the revenues necessary for its government, as follows: On all real estate they shall have the right to levy a tax of not exceeding one per centum on the value of the same; on each white inhabitant above twenty-one years of age and not over forty-five, a poll tax not exceeding two dollars; *Provided*, He shall have resided in said city two months immediately preceding the time the time said tax shall be levied; on each slave under five years of age, not exceeding twenty-five cents, between five and ten years, fifty cents, between ten and fifteen years, seventy-five cents, between fifteen and thirty years, one dollar and fifty cents, between thirty and forty years, one dollar and fifty cents, between fifty and sixty years, fifty cents; on every slave working at any mechanical trade, or hired as a mechanic, not exceeding five dollars; on every free male negro or mulatto, who shall reside in said city, not over twenty dollars, and on every free female negro or mulatto, not over fifteen dollars; a tax on all pleasure carriages, gigs, chairs and sulkies, and saddle, buggy or carriage horses, not exceeding one per cent. on the value thereof; on every cart, dray, wagon, or other vehicle used for the transportation of goods and commodities within the boundaries of the city for hire, a license not exceeding twenty-five dollars; on every retailer of spirituous liquors a license not less than fifty dollars, nor more than five hundred dollars; on the gross amount of commissions charged or received by factors, commission merchants or auctioneers, notaries public, foreign or State corporation agents of any description, on each hundred dollars' worth, and at that rate, not over one per cent.; on the gross amount of sales of merchandize of any sort, made by any person engaged in the business of selling, not otherwise specifically taxed, on every hundred dollars, and

at that rate, not exceeding one dollar; on all goods or articles sold at auction, not over two dollars on every hundred dollars' worth, and at that rate; on the gross receipts of all cotton pickeries, and the storage of cotton or other merchandize, on every hundred dollars, and at that rate, not to exceed one dollar; on the gross amount of premiums received from their business by any bank, insurance or lottery company, on every hundred dollars, and at that rate, not exceeding one dollar, or a license not over one hundred dollars; on all other items subject to tax by the laws of the State, not to exceed the amounts taxed therein.

SEC. 9. *Be it further enacted*, That the city council, or the mayor, or each councilman acting for mayor, shall be and they are hereby vested *ex officio* with and may exercise in said city all the powers and authority that belong to justices of the peace by the laws of this State; and the marshal of said city shall be *ex officio* a constable, and be vested with and exercise all the powers and authority of other constables of the State; and the said mayor, councilmen and marshal shall be liable, respectively, to the same penalties and restrictions as are imposed by the laws of the State upon the several offices with which they are invested, and the sheriff of the county of Barbour and all ministerial officers, shall obey the mandate of said city council of Eufaula, or mayor, or councilman acting for mayor, and truly and faithfully execute the warrants or processes committed to them for service, according to the mandate, and it is made the duty of the jailor of said county to receive all prisoners committed for violations of the laws of the State, by warrant of the said city council, or mayor, or councilman acting for mayor, and the person or persons so committed, safely to keep confined in close jail until delivered therefrom by due course of law.

Mayor *ex-officio*.

Justice of Peace.

SEC. 10. *Be it further enacted*, That should the election not take place on the day fixed for the annual election of mayor, councilmen, clerk and marshal, the corporation shall not for that cause be dissolved, but the incumbents shall remain in office until their successors shall be elected and qualified, and it shall be the duty of the city council to fix some other day as early as convenient, within one month thereafter, on which the said election shall be held.

SEC. 11. *Be it further enacted*, That the said inhabitants of the city of Eufaula, shall be exempt from working on roads and highways out of said city, and from patrol duty out of it, but streets and highways in said city shall be kept in repair by said city, and all male citizens, within the pro-

Exempt from road duty.

visions of the Code of this State, shall be liable to patrol duty within the precincts of the city, and subject to serve as guard or watch at such times and in such numbers as may be prescribed by the said city council or its mayor.

Transfer.

SEC. 12. *Be it further enacted*, That all property, claims and demands of whatsoever description, belonging to the town of Eufaula, shall be vested in the city of Eufaula, and all debts, contracts or liabilities, owing or incurred by said town, shall be good and enforced against said city, and the corporation of said town shall and may subsist as long as necessary for enforcing and collecting all claims and dues, or the same may be enforced and collected by said city.

Duty of Mayor.

SEC. 13. *Be it further enacted*, That it shall be the duty of the mayor to preside and keep order at all meetings of the city council, he shall call extra meetings of the same, whenever in his judgment the interest of the city may require it, he shall hear and determine upon all minor causes for breach of the ordinances and by-laws, and may receive such fees and salary, if any, as may be prescribed by the city council. In the absence or inability of the mayor, the council shall elect one of their own number mayor *pro tempore*, who shall discharge the duties of mayor, and be entitled to their benefits, until the mayor returns or his inability is removed. Two councilmen may call a meeting; the mayor and three councilmen, or four councilmen, shall form a quorum for business.

Quorum.

SEC. 14. *Be it further enacted*, That the said city council may cause an assessment of taxes to be made in each and every year, by the clerk of the same, or any competent deputy it may accept in his place, whose duty it shall be to receive from every person liable to tax in said city, his or her declaration, under oath, of every item and particular upon which said person is liable to be taxed, together with its valuation at and within the time appointed by the said council, in the same manner and with the same restrictions as apply to the regular county and State assessments of the State; and if any person refuses to give in his or her assessment list, or, in the judgment of the clerk or other assessing officer, places an unfair valuation upon property returned, it shall be the duty of said clerk or other assessing officer, to assess the same at what he believes to be its fair value, and likewise to assess all property whose owner or owners may not be known, and the said assessment or assessments, one and all, shall be returned to the mayor to be laid before the city council, and the mayor shall cause at least ten days' public notice, that assessments are closed,

Assessment of
taxes.

and the time when the council will proceed to hear and determine upon all complaints which may be made against such assessment, and it shall be the duty of said council to correct errors and supply omissions or deficiencies, and when the same has been passed upon by said council, and certified by the mayor, the said assessment shall have the force and effect of a judgment and execution, and may be collected by levy and sale of property, on giving such notice as is required by law on executions from the circuit court, and when no property to be found is returned upon said assessment, the mayor may issue a "*capias ad satisfaciendum*," and all sales of property made under or by virtue of such assessments, shall convey to the purchaser the same title as if sold by execution from the circuit court, and the clerks of said city shall, in case of sale of real estate, give the purchaser a deed of conveyance, which shall vest in the purchaser the same interest that was held by the person against whom such tax was assessed, at the time of such assessment; and when the owner is not known, the entire equitable and legal interest in such real estate, discharged of all liens; *Provided*, That when a tax is assessed upon property, the owners of which are unknown, ninety days' notice of sale, specifying the property and the tax, shall be given in some newspaper printed in said city, at the expense of the property; and, *Provided*, That the owner of any real estate sold for taxes, shall have the right to redeem the same by paying to the clerk of said city, for the party interested, the amount of the purchase money, with interest thereon at the rate of twenty per cent. a year from the date of the sale, the costs of the certificate of purchase, all taxes which have accrued thereon subsequently to the sale, together with all costs and charges, any time before the expiration of two years from the date of sale, but the provisions in the Code in favor of infants or lunatics in this respect will apply to their benefit as for common taxes.

Council to correct errors.

Provide.

SEC. 15. *Be it further enacted*, That the said city council of Enfaula shall have full power and authority to make, ordain and enact such laws and regulations, not contrary to the constitution and laws of the State, as may be deemed necessary in relation to the streets and highways, public buildings and powder magazine, and every other matter and thing which they may think indispensable for the good order and welfare of said city.

Power and authority.

SEC. 16. *Be it further enacted*, That all the ordinances and regulations of the intendant and council of the town of

Elections.

Eufaula heretofore made, and not contrary to the constitution and laws of the State, shall be applicable to the said city of Eufaula, and shall remain in full force until repealed or altered by said city council of Eufaula; *Provided*, That before said city council shall subscribe for any stocks as indicated in this act, they shall first give thirty days' notice in the newspapers published in said city of Eufaula, and hold an election in the same manner that other elections are held in said city, at which time all the legal voters thereof may vote upon the question as to whether said subscription shall be made, and if a majority voting at any such election shall vote in the affirmative, the council may then make the subscription, and not otherwise.

Extra power.

SEC. 17. *Be it further enacted*, That the said city council shall be and is hereby empowered, in addition to the powers already conferred by this act, to pass ordinances or by-laws to regulate or prevent the erection of wooden buildings in such parts of said city as, in the opinion of said city council, the public good may require; and pass ordinances for the punishment of such as may injure or deface the public buildings or grounds.

Subscribe for stock.

SEC. 18. *Be it further enacted*, That the said city council be, and they are hereby invested with full power and authority to subscribe for and on behalf of said city to the capital of any railroad or plank road leading to or from said city, or to any gas or water works for the benefit of said city; bridge or bridges coming into or going out of same, and to pledge the faith and credit of said city for the payment thereof, for such an amount or amounts as the said city council may deem best, not exceeding one hundred thousand dollars, and to provide for the payment of such subscriptions, the said city council may and they are hereby empowered to issue bonds on the the faith and credit, and in the name of said city, in such form as the said city council may prescribe, and for an amount not exceeding such subscriptions, bearing interest not exceeding the rate allowed by the laws of this State, and, for the payment of such bonds and the interest, may mortgage and pledge in such other manner as the city council may deem best, all the property owned by said city, real or personal, and may pledge also such amount of taxes as the city council may think sufficient, and have the power to to levy under this act of incorporation.

Issue bonds.

SEC. 19. *Be it further enacted*, That said city council shall be and is hereby invested with power and authority to close any street or part of any street which, in the judg-

ment of the council, may be closed without detriment or inconvenience to the public, and may make such disposition of such streets, or parts of streets so closed, as in the judgment of the council may be best, and most advantageous for the interest of the city; *Provided*, That if the interest of any private party is thereby injured, said party may have, by fair arbitration, due allowance of compensation made to him for the same; and the said city council is also invested with the same power and authority and discretion in relation to the disposition of all property, real and personal, belonging to the said city, or which may be hereafter owned by said city; all the property and rights, of whatsoever description, belonging to said town of Eufaula, or which may belong to the said town at the time of the ratification of this act as hereinafter provided, shall be, and the same is by this act, vested in the said city.

Arbitration.

SEC. 20. *Be it further enacted*, That, considering that the Chattahoochee river, to the high water mark on this side, belongs to the State of Georgia, and that bridges across its stream are taxed by the same, considering also, that all highways of commerce from other States into our own are essentially beneficial to this State at large, and claiming the fostering care and favor of our government, therefore, all bridges built across said Chattahoochee river at Eufaula are and shall be exempt from taxation by the State of Alabama. The provisions of this section are extended to the public hall owned by said city of Eufaula, and the school houses within the same, established or to be established under the free school system.

Bridges, &c., exempt from taxes

SEC. 21. *Be it further enacted*, That this act shall not go into effect or be in force until accepted and ratified by a majority of all the legal voters of said town of Eufaula, but whenever so ratified shall have full force and effect according to its provisions. To ascertain the sense of the legal voters of said town, the intendant and council of the same may cause a vote to be taken whenever and in such manner as the said intendant and council may prescribe; *Provided*, That at least thirty days' notice of the time and place, when and where said vote will be taken, shall be given by said intendant by advertisement published in all the newspapers of said town, and every citizen of said town who would be competent to vote at an election for members of the Legislature shall have the privilege of casting his vote for or against the ratification or acceptance of this charter; and if, when the vote shall have been taken, after the giving of this notice by advertisement as aforesaid, it

Ratification of Charter.

shall appear that a majority of the legal voters of said town have voted for the acceptance and ratification of this charter, the same shall then and thenceforth be in full force, otherwise, the charter and subsequent acts relating to the said town of Eufaula will, as heretofore, remain the law and regulate the government of said town.

SEC. 22. *And be it further enacted,* That all laws and parts of laws which may contravene any of the provisions of this act, shall be and the same are hereby repealed.

APPROVED, December 19, 1857.

[No. 172.]

AN ACT

To incorporate the town of Maysville, in the county of Madison.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the town of Maysville, in the county of Madison, be and the same is hereby incorporated, and the corporate limits of said town shall be as follows: To commence at a point forty rods south-west of the south-west corner of the sixteenth section, of township three, range two, east, of the basis meridian, and running south-east to a point so as to include the dwelling and out-houses of Fleming Jourdan, thence north-west to a point beyond and near the dwelling of John Byrne including it, thence south-west to a point so as to include the dwelling and out houses of John Thompson, thence south-west to the point of beginning.

Boundary line.

SEC. 2. *Be it further enacted,* That an election shall be held in the town of Maysville, on the first Saturday in January, 1858, or as early thereafter as practicable, to commence at 11 o'clock, A. M., and close at 2 o'clock, P. M., for the purpose of electing five councilors, inhabitants of said town, who shall serve for the term of one year and until their successors in office are duly elected and qualified, which election shall be held by a justice of the peace, assisted by two freeholders of said town, and all subsequent elections shall be held in the town of Maysville, due notice having been given by the acting intendant during the month of January, and be assisted by two councilmen, and

Section.

in the absence of the intendant, by a majority of the councilmen; all persons within the corporate limits being entitled to vote who are entitled to vote for members of the General Assembly of this State; and as early as practicable after the election, the councilmen shall meet and elect by ballot one of their number as intendant, who shall, in said town *ex officio*, be a justice of the peace within the limits of the same.

SEC. 3. *Be it further enacted*, That the intendant and councilmen, together with the constable and clerk, which they are empowered to appoint, shall severally, before they enter upon the discharge of their duties, subscribe and take the following oath, to-wit: I, A. B., (as the case may be, intendant, councilman, clerk and constable,) do solemnly swear that I will, to the best of my skill and ability, discharge all the duties incumbent on me, so help me God. A certificate of which oath shall be filed with the record, of the board, and it shall be the duty of the intendant to preside at all the meetings of the councilmen, and preserve order and decorum, and in his absence, or incapacity, any councilman may be called to the chair; and the said intendant and councilmen are hereby constituted a body politic, and incorporate, by the name and style of the Intendant and Councilmen of the town of Maysville, by which name they, and their successors in office, shall be capable in law of suing and being sued, of pleading and being impleaded, in all manner of suits, either in law or equity, and in general to do, and perform, all acts which are usually incident to bodies corporate; to purchase and hold, or dispose of, for the benefit of said town, real, personal and mixed property to the value of five thousand dollars. Oath. Name.

SEC. 4. *Be it further enacted*, That the intendant and councilmen, or a majority of them, are hereby invested with full power to keep open, and in good repair, the streets and alleys of said town, to preserve peace and good order, to fine in cases of assault and battery in any sum not exceeding twenty-five dollars and the same to collect, to prevent and to remove nuisances, to suppress gaming of every description, to establish night watches and patrols and to punish for neglect of patrol duty, to restrain or tax shows, or exhibitions, and the sale of spiritous liquors in said town, and to impose a fine not exceeding fifty dollars for any violation of the by-laws, for the purpose of carrying into effect the powers herein granted, and all other powers necessary for the good government of said town, not inconsistent with the laws of this state. Power.

Levy tax.

SEC. 5. *Be it further enacted*, That the intendant and councilmen shall have power to levy a tax on the inhabitants and property of said town, to raise money for the purpose of properly governing and managing the affairs of said corporation, and they shall, as soon as convenient after the election, elect by joint ballot a clerk, treasurer, and constable for said town, and it shall be the duty of said clerk to issue all executions for fines and taxes which may be necessary, signing the same, and deliver the same to the constable, whose duty it shall be to collect and pay over the same to the treasurer, who shall give bond and sufficient security to the intendant and councilmen before entering upon his duties.

Remove from of Sec.

SEC. 6. *Be it further enacted*, That the intendant and councilmen shall have power to remove from office the clerk, treasurer and constable, upon satisfactory reasons, and appoint others, and fix the salaries of such officers as in their judgments they may deem sufficient, and if by them thought advisable, taking bonds from the constable and clerk for the faithful performance of duty.

APPROVED, February 6, 1858.

[No. 173.]

AN ACT

To incorporate the town of Rodgersville, in the county of Lauderdale.

Boundary line.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the town of Rodgersville, in the county of Lauderdale, be and the same is hereby incorporated, and the corporation limits of said town shall embrace the following area: Beginning at the quarter section post, on the east boundary line of section nine, of township three, of range seven, west, thence north to the quarter section post, on the east boundary line of section twenty-eight, township two, range seven, west, thence west to the quarter section post, on the east boundary line of section thirty, township two, range seven, west, thence south with the range line to the quarter section post, on the west boundary of section seven, township three, range seven, west, thence east to the beginning.

SEC. 2. *Be it further enacted*, That an election shall be held in the town of Rogersville, on the first Monday in March, 1858, and on the same day annually thereafter, to commence at 10 o'clock, A. M., and close at 3 o'clock, P. M., for the purpose of electing seven councilmen, inhabitants of said town, who shall serve for the term of one year and until their successors in office are duly elected and qualified, which election shall be held by two freeholders of said town, and all subsequent elections shall be conducted and held by any two councilmen, all persons in the corporate limits being entitled to vote who are qualified to vote for members of the General Assembly of this State; and during the week after the election, the councilmen shall meet and elect by ballot one of their number as intendant, who shall, in said town, *ex officio*, be a justice of the peace within the limits of the same.

Election.

Qualification.

SEC. 3. *Be it further enacted*, That the intendant and councilmen, together with the constable and clerk, which they are empowered to appoint, shall severally, before they enter on the discharge of their duties, subscribe and take the following oath, to-wit: "I, A. B., (as the case may be, intendant, councilman, clerk, or constable,) do solemnly swear that I will, to the best of my skill and ability, discharge all the duties incumbent, so help me God." A certificate of which oath shall be filed with the records of the board; and it shall be the duty of the intendant to preside at all meetings of the councilmen, and preserve order and decorum, and in his absence, or incapacity, any councilman may be called to the chair; and said intendant and councilmen are hereby declared and constituted a body politic and corporate by the name and style of the Intendant and Council of the town of Rogersville, by which name they and their successors in office shall be capable of suing and being sued, of pleading and being impleaded, in all manner of suits, either in law or equity, and in general to do and perform all acts which are usually incident to bodies corporate; to purchase, hold, use and dispose of, for the benefit of said town, real, personal and mixed property, to the value of ten thousand dollars.

Oath.

Name.

SEC. 4. *Be it further enacted*, That the intendant of said town is a conservator of the peace within the corporate limits of said town, and it is his right and duty to suppress all affrays, routs, riots, unlawful assemblies and insurrections, and all lewd, indecent, profane, riotous, or disorderly conduct, in any public place therein; to do which, he may summon to his aid as many of the male inhabitants residing

Duty of intendant.

in the corporation as he thinks proper. He has full power to punish for contempts, in the same manner, and under the same rules and regulations, prescribed by the Code of Alabama, in reference to the punishment of contempts by justices of the peace. He has full power to try all offences against the ordinances and by-laws of the corporation, without regard to the fine or forfeiture, and to punish the offender by fine, or imprisonment, in the manner prescribed by said ordinances and by-laws.

SEC. 5. *Be it further enacted,* That the corporate authorities of said town shall have power to suppress houses of ill fame; to restrain, prohibit and punish vice and immorality, disorderly conduct, affrays, assaults and batteries, and all other breaches of the peace within their corporate limits; to license and regulate billiard tables, ten pin alleys, and all other tables and alleys of like kind, and to cancel and annul such and all other licenses granted by the corporation; to restrain and prohibit racing, cock fighting, within the corporate limits; to declare nuisances, and to suppress and remove them, and in general to suppress and restrain, prohibit and punish, all acts, assemblies, or things within their corporate limits injurious to the public health or morals. They may provide for the punishment of all persons violating any of the ordinances, or by-laws of said corporation, by fine not exceeding fifty dollars, and by imprisonment not exceeding five days. They may also establish a tariff of fees to be paid the officers of the corporation, in case of violation of the ordinances and by-laws, by the defendants on conviction, and may enforce, by appropriate process, the collection of the same.

SEC. 6. *Be it further enacted,* That the intendant and councilmen, or a majority of them, are hereby invested with full power to keep open, and in good repair, the streets and alleys of said town, and the citizens of said corporation shall be exempt from road duty than the corporate limits before described; and to carry out this section, and for the purpose of properly governing and managing the affairs of said corporation, the intendant and councilmen shall have power to lay a tax on the inhabitants and property of said town, not exceeding fifty cents on the one hundred dollars in value of real estate.

SEC. 7. *Be it further enacted,* That the intendant and council, for the purpose of properly managing and governing the affairs of said corporation, shall, within ten days after their election, elect by ballot a clerk, treasurer, and constable of said town, and prescribe the duties of said of-

Powers, privilege,
gen. &c.

Fines.

27.

ficers when elected; they shall also have power to remove from office the said clerk, treasurer, and constable, upon satisfactory reasons, and appoint others, and shall fix the salaries of such officers and the intendant, as in their judgment they may deem sufficient, and if by them thought advisable, take bonds from the clerk, treasurer, and constable, for the faithful performance of duty.

APPROVED, February 2, 1858.

[No. 174.]

AN ACT

To incorporate the town of Columbiana, in the county of Shelby.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the town of Columbiana, in the county of Shelby, be, and the same is hereby incorporated; and the bounds of said corporation shall be three-fourths of a mile every way from the court house in said town. Incorporated.

SEC. 2. *Be it further enacted,* That an election shall be held at the court house in said town, on the second Monday in March next, and annually thereafter; the polls to be opened at 11 o'clock, and close at 2 o'clock in the evening, for the purpose of electing, by ballot, five councillors, inhabitants of said town, who shall serve for the term of one year after they shall have been elected, and until their successors are qualified. The first election shall be managed by J. T. Leeper, B. F. Sawyer, D. W. Caldwell, H. V. Kaleois, John Harkins, and D. N. McClanahan, or any two of them; and all subsequent elections shall be managed by two of the councillors, to be appointed by the board for that purpose; and the said councillors shall, on the next day after their election in each year, meet and elect, by a majority of votes, from their own body, an intendant, whose duty it shall be to preside and keep order at all meetings of the said councillors; and in his absence, any other member may be called to the chair. And the said intendant and council shall be, and they are hereby constituted a body corporate, by the name and style of the Intendant and Council of the town of Columbiana, and by that name, they and their successors shall be capable in law of suing and being sued, of plead- Election.

Seal.

ing and being impleaded, in all manner of suits, either in law or equity: also to have and keep a common seal; and the same to break, alter, or amend, at pleasure; and, in general, to do all acts which are incident to bodies corporate; and to purchase, hold, and dispose of, for the benefit of said town, real, personal, or mixed property, to the amount of eight thousand dollars.

Oath.

SEC. 3. *Be it further enacted*, That the intendant and councilors, before entering upon the duties of their offices, shall take and subscribe the following oath before the judge of probate of said county, or any justice of the peace for said county, viz: "I do solemnly swear, (or affirm as the case may be,) that I will well and truly, and to the best of my knowledge and ability, execute and discharge the duties of intendant, (for intendant,) councilor, (for councilor,) of the town of Columbiana, without fear, favor or partiality, so help me God."

Office vacated.

SEC. 4. *Be it further enacted*, That any elector of said town, who is of the age of twenty-one years or upwards, shall be eligible either to the office of intendant or councilor, and should said intendant remove from the said town, or be sent therefrom for three months, at any time without the consent of the councilors, his office shall be vacated; and should any councilor, or councilors remove from the said town, or shall be absent therefrom for three months at any one time, without the consent of the intendant and the other councilors, his, or their office shall be vacated; and it shall be the duty of the remaining part of the board, forthwith, to supply the vacancy, or vacancies, so accruing.

Intendant pro tem.

SEC. 5. *Be it further enacted*, That in the event of any vacancy accruing in the office of intendant, either by death, resignation, or otherwise, the councilors shall choose one of their body intendant *pro tempore*, who shall continue in office as intendant until the next succeeding annual election; and further, if any vacancy shall happen in the body of councilors, by death, resignation, or otherwise, then, and in that case, it shall be the duty of the intendant to appoint managers to hold an election to fill such vacancy, or vacancies, who shall, after giving five days' previous public notice, proceed to open the polls for such election, and after the same, it shall be their duty to make known to the successful candidate his election.

SEC. 6. *Be it further enacted*, That all white free male citizens of the age of twenty-one years, or upwards, who shall have resided within the limits of said town three months immediately preceding an election for intendant

and councilors, or either of them, and all householders, or freeholders therein, who shall have resided within the limits of said town one month previous to said election, shall be qualified voters at said election for such intendant and councilors, or either of them. Freeholders.

SEC. 7. *Be it further enacted*, That the intendant and councilors, or a majority of them, shall have power to adjourn their meetings from time to time: *Provided*, the intendant may, at any time, call a meeting of the councilors, by written notice, designating the time and place of meeting, and on application of any two or more councilors, the intendant shall call a meeting in like manner; they shall keep a journal of all their proceedings, and record all their official acts and doings; and the yeas and nays on any question or subject shall be taken, and recorded at the request of any member of the board; and all deliberations of said intendant and councilors shall be public. Provided.
Journal.

SEC. 8. *Be it further enacted*, That the said intendant and councilors shall have authority to enact such ordinances and by-laws as they may deem necessary for the good order and government of said town of Columbiana, to prevent and remove nuisances of every description, and which may extend to the preservation of health; to establish night watches patrols, or town guards; to erect lamps; to regulate the paving or flagging, guttering and railing the sidewalks; to protect by adequate penalties shade and ornamental trees in said town; to license, tax, and restrain, at pleasure, theatrical amusements, shows, and menageries of all kinds whatsoever within said corporation; to clear and keep in repair the streets of said town; to restrain and prohibit all nightly and disorderly meetings of slaves, free negroes, or mulattoes, and all other knavish or disorderly persons; to restrain and prevent all white persons, and free persons of color, and slaves, from trading with slaves, without a written order or permit from his, or her, or their owner, or owners, agent or overseer; and in general, to pass such ordinances and by-laws not contrary to the Constitution of the State and the laws thereof as the said intendant and council shall from time to time deem expedient and necessary, to carry into effect the meaning and object of this act, and the same to put in execution, and to make and alter the same, as shall be deemed expedient. That said intendant and council shall appoint a clerk, a treasurer, assessor to collect, and constable and such other subordinate officers as they may deem expedient and necessary, and require such security for the faithful discharge of their duties, as may be deemed adequate. By-laws.
Tax.
Slaves.
Clerk and Treasurer.

Fines and forfeits.

Provided.

The said intendant and council are hereby also empowered to enact a law to impose appropriate fines, penalties, and forfeitures for the breach of their ordinances and by-laws, not to exceed fifteen dollars for every offence, recoverable with costs in the name of the intendant and council of the town of Columbiana, for the use of the town, before the intendant thereof, for which suit may be commenced by warrant, returnable forthwith, or otherwise: *Provided*, That all ordinances and by-laws shall be subject to repeal by the legislature of this State, and that nothing herein contained shall be construed so as to prevent appeals to the circuit court in the same manner, and under the same rules and regulations as appeals are taken from justices of the peace.

Levy tax.

Provided.

SEC. 9. *Be it further enacted*, That the said intendant and council shall have power to levy and collect a tax on real estate, not exceeding ten cents on every hundred dollars' worth, when the lots are improved with a house or houses, and enclosures, and not exceeding twenty-four cents on every hundred dollars' worth, when the lots are not improved with a house, or houses, and enclosures, and not exceeding twenty-five cents on every hundred dollars' worth of stock in trade, and all personal property kept within the corporate limits of the town of Columbiana: *Provided*, The tax on real and personal estate be laid in proportion to the value thereof, according to an assessment and valuation given by the owner, or owners, his, her, or their agents, or by the assessor appointed by the intendant and council; and should any person think his or her property assessed too high, he or she shall have a right to complain to the intendant and council, who shall consider and reduce said assessment, if, in their opinion, it has been placed too high by said assessor, and the decision shall be final.

Overseer streets.

Provided.

SEC. 10. *Be it further enacted*, That the intendant and council of said town of Columbiana shall appoint an overseer, or overseers of the streets and roads of said town, and shall require and regulate the working on the same not exceeding ten days in each year, and may exempt at discretion from working on the same, all persons they may think proper; and all persons living within the corporation liable by law to work on roads and highways, by paying an additional poll tax, not exceeding five dollars per head on each one so liable to work, for the use of said town, shall be exempt from working on the same: *Provided*, That all slaves in said corporation who are liable to work shall not be taxed as personal property.

SEC. 11. *Be it further enacted*, That at the first election

for intendant and council under this act, and at every election for said officers thereafter, the sense of the legal voters of said town shall be taken upon the question of retailing spirituous liquors within the corporation, and to that end, it shall be the duty of the returning officers to propose to each voter, as he presents himself, the question, "retailing, or no retailing?" and the clerks of said poll shall register the vote so given; and it shall be the duty of the judges and clerks to cast up such vote, and if it shall appear that a majority of all the votes cast are against retailing, then no license shall be granted by the judge of probate, or the officers of said incorporation, to retail spirituous liquors within said corporation; but if a majority of all the votes cast are in favor of retailing, then said intendant and councilors shall provide for licensing and regulating such retailers of liquors as they may believe the interest of said town may require: *Provided*, such person, or persons, as they may see fit to license shall have first obtained a license from the judge of probate of said county, as is now required by law.

Legal voters.

SEC. 12. *Be it further enacted*, That from and after the passage of this act it shall be unlawful for any person, or persons, to sell drugs, or medicines, in the town of Columbiana, until they have first obtained a license, as directed in section 980 of the Code, and the same pains and penalties shall be inflicted for a violation of the provisions of this twelfth section, as are specified in said section 980 of the Code.

Drugs or medicines.

SEC. 13. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed: *Provided*, however, That this act shall not be so construed as to repeal an act providing for the office of justice of the peace within and for the town of Columbiana.

Provided.

APPROVED, February 6, 1858.

[No. 175.]

AN ACT

To incorporate the Alabama Planters' Steamboat company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That George J. Williamson, William W. Anderson, George W. Howell, F. M. Hardwick and Robert S. Cowan, of the county of Cherokee and their associates, who have subscribed, or may hereafter subscribe for the building of a steamboat to ply upon the Coosa river between the city of Rome, Georgia, and Green Port, in the State of Alabama, are hereby constituted a body politic and corporate by the name and style of the Alabama Planter's Steamboat company, and by that name and style, shall sue and be sued, plead and be impleaded. The said corporation must have a common seal, which it may alter or renew at pleasure.

Body politic.

Stock.

Directors.

President.

By-laws.

Stockholders.

SEC. 2. *Be it further enacted,* That the subscription stock of said company shall not exceed fifty thousand dollars, and may be divided into such number of shares as the said company may prescribe. The said company may elect, at such time and place as a majority number and amount of its stockholder may designate, from among themselves, five directors, for the management of their business, who must select one of their body to preside as president of the company. The said president and directors must prepare a code of by-laws for the said company which must be adopted by a majority in number and amount of the stockholders, of said company before they shall be binding, and which may be changed, only by a like vote of said stockholders. The said directors, with the president may elect from said corporation, a secretary and treasurer, who shall be allowed compensation for their services, which compensation together with the salaries of the president and directors of said company, must be fixed by the by-laws of said company, said officers and directors to hold office for but one year, and until their successors are qualified. No election shall be had for the office of director except at a regular meeting of the stockholders in said company and upon at least twenty days' previous public notice of time and place. Each share in the capital stock of said company shall entitle the holder thereof to one vote, so far as five shares, and to one vote for every addition five shares, and no more. The by-laws of said corporation must not be in conflict with this charter or the laws of this State, and must fix the amount of the bond which shall be required of the treas-

urer, which shall be made payable to said corporation by its corporate name, conditioned for the faithful application of all the money entrusted to his care as treasurer aforesaid. The fraudulent conversion of any monies or property of said company by any of its officers or agents, shall be a felony and punished as other felonies of a similar kind.

SEC. 3. *Be it further enacted*, That the said company may build or buy one or more steamers, and as many lighters, flatboats, or other water crafts, suitable for the transportation of passengers, goods, wares or merchandize as they may deem necessary in the carrying on of their said business, and may use the same in the transportation of merchandize, produce and other freights, and carry passengers in connection with other steamboats or railroads, or otherwise having regard to the stage of the water and the press of business, and shall be allowed to charge and collect reasonable tolls and freights and be subject to damages for all injuries to persons or property, except such as result from actually unavoidable accidents from previously unknown causes—the act of God and dangers of the river.

Vessels, &c.
Transportation.

SEC. 4. *And be it further enacted*, That the person named in section one of this act, may act as commissioner for the purpose of organizing said company, they may receive subscription to the capital stock of the same, hold elections for directors at such time and place as they may designate, not longer than six months from the passage of this act, by giving the notice, by this act required, and the said commissioners may do, and perform all things needful in carrying out the objects and purposes of said company, until the same shall be regularly organized into a board of president and directors, they shall then deliver over books, papers, funds and effects of said corporation into the custody of the said directors.

Capital.

APPROVED, February 6, 1858.

[No. 176.]

AN ACT

To incorporate the Mobile and Point Clair Steamboat company.

Body corporae.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Francis H. Chamberlain, Jones M. Withers, Richard L. Watkins, Robert R. Dade, Charles W. Gascoine, Edward Henshaw and John A. M. Battle, and their associates, are hereby incorporated by the name and style of the "Mobile and Point Clair Steamboat company," and as such are authorized to purchase, hire, charter, construct, build or repair, and own boats, vessels or steamboats, and personal property, and to employ the same in navigating the waters of Mobile Bay, between the county of Mobile and the county of Baldwin, in the State of Alabama, and elsewhere: *Provided,* The same do not exceed in value the sum of one hundred thousand dollars.

Officers.

SEC. 2. *Be it further enacted,* That the said corporators, or a majority of them, shall meet and determine the number of directory and officers, the number of shares, and the amount of each share, and the time and place, and the terms and conditions on which the same may be subscribed for, and when organized shall possess all powers necessary to carry on and conduct said business, which shall be confined to the objects enumerated in the first section of this act.

APPROVED, February 5, 1858.

[No. 177.]

AN ACT

To incorporate the Mobile and Nicaragua Steamship company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened.* That Colen J. McRae, Z. Deas, Benjamin F. Marshall, William A. Smith, Henry G. Humphries, Jones M. Withers, John Grant, Julius Hessee, and William Ketchum, and their associates, who have subscribed for the purchase of the steamship called the Fashion, and other steamships, and all

other persons who may hereafter subscribe to the stock hereinafter named be, and they are hereby constituted a body politic and corporate, by the name and style of the Mobile and Nicaragua Steamship company, and by that name shall be, and are hereby declared capable in law, to have, own and enjoy to them and their successors, real estate not exceeding in value thirty thousand dollars, and personal property, goods, chattels and effects of whatsoever kind, and the same to grant, sell and dispose of at their pleasure, to sue and be sued, plead and be impleaded in any court whatsoever; to have a common seal, and the same to break, alter and renew at their pleasure, and by their directors as hereinafter provided, to ordain and establish by-laws and repeal and alter the same at pleasure: *Provided*, Said by-laws shall not be inconsistent with this charter, nor with the laws of this State or the United States, and provided nothing herein contained, shall vest in said corporation banking privileges.

Body politic.

Provided.

SEC. 2. *Be it further enacted*, That the capital stock of the said corporation shall be one hundred thousand dollars, with liberty to increase the same to three hundred thousand dollars. Said stock shall be divided into shares of one hundred dollars each, and shall be deemed personal property, and transferable in such manner as the said company by its by-laws, may direct; the said corporation may commence operations when five thousand dollars of their stock shall have been subscribed; if at any time it is desired to increase the stock to any amount beyond the said one hundred thousand dollars, the directors, for the time being, shall appoint five commissioners to open books of subscription at such places as said directors may appoint; of which ten days' notice shall be given by advertisement in some newspaper published at the appointed place of subscription, and such new stock shall be under such rules and regulations as the directors may prescribe.

Capital stock.

SEC. 3. *Be it further enacted*, That said company shall have power to build, purchase, or charter, and to possess and own such ship or ships, as they may see fit; to be propelled in whole or in part, by steam or any other expansive fluid or gas, or other motive power, and to run and navigate, between the port of Mobile, or any other port on the Gulf of Mexico or Atlantic Ocean, and the port of Greytown in Nicaragua, or any other port on the Atlantic Ocean, Gulf of Mexico, or Carribean Sea, and to touch at and trade to, and with any intermediate port or ports, as the said company may deem expedient, and also to build, pur-

Run, navigate,
&c.

chase, or own or charter, any and all auxillary vessels and boats that may be deemed needful to provide fuel or other necessities, or to aid in the transportation of freight and passengers to and from any sea going vessel that may be in the employment of said company.

Directors and
president.

By-laws.

SEC. 4. *Be it further enacted*, That the affairs of said corporation shall be managed by a board of directors to be chosen by the stockholders among themselves, by ballot, at their annual meetings in each and every year, four of whom shall constitute a quorum; said directors shall choose from their number one to act as president of the company; he shall hold his office for one year; the said company shall elect such other officers and agents as it may deem necessary for the transaction of its business, who shall be elected in the mode, and whose duties shall be such as may be declared by the by-laws of the company, passed in pursuance of the provisions of this act.

Meeting.

SEC. 5. *Be it further enacted*, That it shall be the duty of the persons named in the first section of this act, as soon as practical after the passage thereof, to call a meeting of the stockholders of this company; at such meeting or at an adjourned meeting called for that purpose, the said stockholders shall elect seven directors of the company who shall be stockholders, and shall hold their offices till the annual meeting of the company in the year 1858; the said board of directors shall have power to make such regulations or by-laws for the management of the business of said corporation as they may see fit; not inconsistent herewith or the laws of the land. Each stockholder shall be entitled at all meetings of the stockholders to one vote, in person or by proxy, for every share of stock held by him or her, and no stockholder shall in any way be liable for any debt contracted by the corporation beyond the amount of his interest in the stock of the said company.

Subscriptions.

SEC. 6. *Be it further enacted*, That it shall be lawful for the directors of the said company to call in and demand from the stockholders respectively, all sums of money by them subscribed, at such time or in such sums or installments as may have been agreed upon at the time of the subscription, or as may have been prescribed as the conditions of subscriptions; and if the amount so due and called for remain unpaid for the space of thirty days, the said board of directors may declare the stock with all payments thereon previously made, forfeited to the company, or at their option, the amount so due and unpaid may be recovered by suit in the name of the corporation.

SEC. 7. *Be it further enacted,* That in case from any cause it becomes necessary to wind up the affairs of said corporation, and an amicable arrangement of its affairs cannot be made among the parties interested, it shall be the duty of the chancellor of the southern chancery division, upon application by bill of stockholders holding a majority of the stock, to take jurisdiction of the case, and if necessary for the interest of the parties concerned to appoint three suitable persons commissioners, who if required, shall give bond for the faithful performance of the trust, who shall take possession of the property and assets of the corporation, collect in its debts and demands, and as rapidly as possible, under the direction of the chancellor, wind up and settle the affairs of the company, and make equitable distribution among the parties interested. Stockholders.

SEC. 8. *Be it further enacted,* That the directors of said corporation shall have power to call a general meeting of the stockholders at any time they may think expedient, and any number of stockholders holding or representing one third of the capital stock paid in, may at any time call a general meeting of the stockholders relative to the affairs of the corporation, giving at least thirty days' notice of the time and place of such meeting, in some one or more of the newspapers published in the city of Mobile, and specifying the purpose or purposes thereof.

APPROVED, February 8, 1858.

[No. 178.]

AN ACT

To incorporate the town of Union Springs, in Macon county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly con-* That the town of Union Springs, in the county of Macon be, and the same is hereby incorporated under the name and style of the Intendant and Council of the town of Union Springs, and under that name they shall be liable to sue and be sued, may plead and be impleaded in all manner of suits, both in law and equity, and have and keep a common seal, and the same break, alter, or amend, at pleasure, and

in short shall have power to do all acts incident to bodies corporate, and may purchase, hold, and dispose of, for the benefit of said incorporation, town property, real, personal or mixed, to the amount of twenty thousand dollars.

SEC. 2. *Be it further enacted*, That the corporate limits of said town of Union Springs, shall extend one half mile north, south, east and west, from James A. Jones' Hotel.

Elections.

SEC. 3. *Be it further enacted*, That there shall be seven councilmen elected for said town, between the hours of 10 o'clock, A. M. and 4. o'clock, P. M., on the 2d Monday in March next, which election shall be conducted by H. H. Smith, Thomas H. Ellis, E. W. Toney, D. A. McKay, P. H. Youngblood and Job Thompson, any two of whom shall have power to act, and shall give certificates of election to the seven persons who shall have received the highest number of votes, provided the said managers before they enter on the duties herein assigned them, shall take an oath before some justice of the peace, to conduct the said election according to law, and said councilors, so elected, shall continue in office until their successors are elected and duly installed.

Oath

Notice of election

SEC. 4. *Be it further enacted*, That all subsequent elections for councilmen in said town, shall be holden on the 2d Monday in January of each year, and shall be conducted by any two of the Councilmen, to be appointed by the board for that purpose, and if from any cause said election shall not take place on the day set apart for holding the same, the board may appoint some other day thereafter for holding said election, upon first giving five days' notice thereof, by posting said notice in some conspicuous place and advertising the same in some newspaper published in the county of Macon, nearest said town of Union Springs, and in said election all free white males twenty-one years of age, who have been for three months next preceeding said election, residents of said town of Union Springs, shall be entitled to vote.

Oath before J. P.

SEC. 5. *Be it further enacted*, That after each election is holden, the councilors so electeed, shall convene in some suitable place in said town, and take and subscribe an oath, before some justice of the peace, or some person authorized to administer the same, faithfully to discharge the duties to them committed without favor, or affection, or partiality, and to support the constitution of the United States, and the State of Alabama, a certified copy of which oath shall be filed with the clerk of the board of councilors.

SEC. 6. *Be it further enacted*, That when said councilors

shall have been qualified as hereinbefore provided, they shall proceed to elect by a majority of votes, from their own body an intendant whose jurisdiction shall extend to all laws passed by the incorporation, for its government, and in the absence, or incapacity of the intendant, any member may be called to the chair. The intendant shall approve all ordinances that may be passed by the board, and shall be *ex officio* justice of the peace for all purposes connected with the incorporation, and the enforcement of its laws and shall be entitled to receive for his services, in enforcing the laws of the incorporation, the same fees as are, or may be allowed to the justices of the peace in the county of Macon.

Votes.

Justice • Peace

SEC. 7. *Be it further enacted*, That said board of intendant and councilors, or a majority of them, shall have power to pass by-laws and ordinances for the government of said town, not inconsistent with the constitution and laws of this State; to appoint a clerk, a treasurer, a marshal and such other officers for said town, as they may deem proper for the good government of the same, and said board shall prescribe the duties and compensation of said officers, and the same remove at pleasure for neglect of duty, or malpractice in office, and said board may require such bond from their several officers, as they may deem proper to ensure the faithful performance of their respective duties.

Bond of officers.

SEC. 8. *Be it further enacted*, That said board shall have exclusive control over the public streets, alleys, springs and wells, and all public works belonging to said incorporation; shall have power to enact and enforce patrol laws, quell riots and disturbances, and suppress indecent or disorderly conduct; prevent and remove nuisances, punish offenders against the by-laws, and pass and enforce all ordinances that may tend to promote the peace and harmony, good order, health, and well being of the citizens of said incorporation: *Provided*, That no one penalty, or fine in any one case, shall exceed fifty dollars, or fifty days imprisonment in the guard house.

Streets. &c.

SEC. 9. *Be it further enacted*, That said board or a majority of them shall have full power to levy and collect such tax upon the citizens living or holding property within the limits of said incorporation as may be necessary, not exceeding two dollars and fifty cents on each white male person over twenty-one years of age, and an *ad valorem* tax not exceeding one-tenth of one per cent. on all goods and merchandise sold within the incorporation, and the same tax on all chattels, lands and tenaments, being within the limits aforesaid, and said board shall have power to levy such tax

Levy and collect tax.

on all itinerant merchants, hawkers, peddlers, traffickers and shows, or exhibitions, as they may deem proper: *Provided*, that in no one case shall the tax levid exceed twenty-five dollars.

License to retail
liquor.

SEC. 10. *Be it further enacted*, That said board of councilmen shall be authorized to issue license to any person to retail ardent spirits within the limits of said incorporation, for one year, upon the payment of a sum not less than five hundred dollars, nor exceeding one thousand dollars, as the board in their discretion may deem proper: *Provided*, The person applying for the same shall present such an application, signed by three respectable freeholders of said incorporation, and the amount required by said board shall be paid into the treasury before the said license shall be issued.

Provided.

SEC. 11. *Be it further enacted*, That said board of councilmen shall be authorized to issue licence to any person to sell ardent spirits by the whole sale, within the limits of said incorporation for one year, upon the payment of a sum not less than one hundred dollars, nor more than three hundred dollars, as the board in their discretion may deem proper: *Provided*, The applicant for license shall pay such amount into the treasury of said board before such license shall be issued.

Fine \$50.

SEC. 12. *Be it further enacted*, That any person who shall sell ardent spirits within the limits of said incorporation, without obtaining license according to the provisions of the two preceeding sections, shall on conviction thereof, before any magistrate of the county of Macon, in the State of Alabama, be fined in a sum not less than twenty five dollars, nor more than fifty dollars, one half of said fine to be paid to the informant, and the other half to said board.

Officers.

SEC. 13. *Be it further enacted*, That the officers of said incorporation shall keep a record of their proceedings, and no by-law shall be in force until it has been posted in some conspicuous place within the limits of said incorporation for at least ten days.

Roads.

SEC. 14. *Be it further enacted*, That the citizens of said town shall not be compelled to work upon or open roads beyond the limits of said incorporation.

SEC. 15. *Be it further enacted*, That the provisions of this act shall not apply to regular physicians and druggists, located in the town of Union Springs, so as to prevent them to purchase or to sell ardent spirits strictly for medical purposes.

SEC. 16. *Be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

APPROVED, February 6, 1858.

[No. 179.]

AN ACT

To amend the charter of the city of Selma.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the act entitled an act to incorporate the city of Selma, passed at the session of the Legislature of this State of 1851-2, approved 9th of February, 1852, be, and the same is hereby altered and amended by this act as herein-after specified; that is to say, by changing the last paragraph of the seventh section of said act commencing "on every vender of goods, wares," &c., to the conclusion of said seventh section, so as to read as follows, to wit: "on the business of every vender of goods, wares and merchandize, drugs and medicines or either of them, a tax of not exceeding the rate of one fourth of one per cent. on the amount of sales of such venders."

SEC. 2. *Be it further enacted*, That said act be and the same is hereby further amended as follows; that is to say, by changing the proviso at the conclusion of the second section of said act relating to the qualification of voters, so as to read as follows, to wit: "*Provided*, He shall have been actually or legally a resident citizen of said city for six months next preceding the election, and shall have performed the service upon the streets of the city which may be required by ordinance of the city; or shall have paid the assessment for street tax which may be provided by ordinance as a street tax in lieu of such service, and shall have paid the poll tax of the city which may be assessed by ordinance of the city, and not otherwise. And at all elections of mayor and councilmen, it shall be the duty of the existing board of mayor and councilmen, to furnish the judges of the election, a list of such persons as may be in default in regard to such street service or assessment or poll tax, for reference at the election."

SEC. 3. *Be it further enacted*, That the foregoing amend-

ments shall form and constitute part and parcel of the act aforesaid incorporating said city; and the said act so altered and amended, shall be and remain in full force.

*APPROVED, February 6, 1858.

[No. 180.]

AN ACT

To amend the charter of the town of Cahaba, and for other purposes.

Tax. **Provided.** SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the intendant and town council, of the town of Cahaba, shall have full power and authority to assess a tax not exceeding one thousand dollars upon any person retailing spiritous or vinous liquors within the corporate limits of said town: *Provided,* That before the said intendant and town council pass any by-laws or ordinances for assessing the tax to be required of retailers as aforesaid, that they are hereby required to hold an election to take the sense of the legal voters of said corporation, as to the amount to be assessed, and said tax shall be assessed as the amount indicated by the largest number of votes poled at such election.

By-laws. SEC. 2. *Be it further enacted,* That the intendant and each and every one of the councilors, comprising said town council, are hereby authorized and empowered to impose the fines fixed by the by-laws and ordinances of said town, for a violation thereof, which fines so imposed, shall have the force and effect of judgments of justices of the peace, and may be enforced by execution to be issued to the marshal of said town or any constable.

Capital stock. SEC. 3. *Be it further enacted,* That said intendant and town council are hereby authorized to subscribe ten thousand dollars to the capital stock of the Marion Railroad company, to be paid out of the proceeds of the sale of the commons of said town, and that the act approved January 31st, 1852, which authorized a sale of said commons be, and the same is hereby so amended, so as to authorize the payment of sales of said subscription out of the proceeds of said town commons: *Provided,* The said town council shall first procure the assent of a majority of the legal vo-

ters of said town, to such subscription sale of the said town commons and the said application of the proceeds of such sale, by submitting these questions to the said voters at an election to be held for this purpose, at such time as may be designated by said town council, and to be managed in such manner as it may direct.

APPROVED, January 12, 1858.

[No. 181.]

AN ACT

To alter and amend the charter of the town of Camden in Wilcox county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the boundaries of the town of Camden shall be three-fourths of a mile north, the same distance west, the same distance south, and one half mile east, from the female institute, viz: the lines shall be so run as to intersect each other at right angles, and the nearest point of each line shall be the distance above designated from the institute, and the free white inhabitants dwelling within the said corporate limits, are hereby constituted a body politic and corporate by the name of the "Town of Camden," and may by that name sue and be sued, implead and be impleaded in any court of this State, may use a common seal which may be altered at their pleasure, and may hold property real or personal for the use of said town, not exceeding twenty thousand dollars.

SEC. 2. *And be it further enacted,* That the corporate powers of said town shall be vested in and executed by an intendant and four councilors, and who, when elected and qualified as hereinafter provided, shall constitute a board to be called the "the Indendant and Council of the town of Camden," and who shall hold their offices until their successors are qualified.

SEC. 3. *And be it further enacted,* That an election of intendant and councilors of said town, shall be held on the second Monday in March, in each and every year, at the court house or some other convenient place, in said town, and the said election shall be held by any two members of the board, or by any member of the board and two free-

holders of said town, and said election shall be conducted as elections for members of the State Legislature, and if from any cause such election should not be held at the time herein prescribed, the intendant, or any two councilors may advertise some other convenient day when said election shall be held, and the intendant and councilors, before entering upon the discharge of their duties, shall take and subscribe an oath, faithfully to discharge the duties of their offices, and which oath may be administered by a justice of the peace to the intendant, and by him to the councilors.

SEC. 4. *And be it further enacted*, That no person shall be eligible to the office of intendant or councilor of said town unless he shall be at the time of his election a citizen of said town, and a native born or a naturalized citizen of the United States.

SEC. 5. *And be it further enacted*, That every free white male citizen of said town, who is qualified to vote for members of the State Legislature, and who shall have paid all taxes and fines assessed against or imposed upon him by the proper authorities of said town, and who shall have resided in said town for three months, next preceeding any election for intendant and councilors, shall be entitled to vote at said election.

SEC. 6. *And be it further enacted*, That the intendant and councilors shall have full power and authority to make all by-laws and ordinances of whatsoever kind and upon whatever subject, not repugnant to the laws of this State, which to them may seem right and proper, for the good government of said town; to lay and collect taxes, to defray the expenses of the corporation not exceeding the county tax upon the same kind of property; to affix such fines not exceeding twenty dollars and imprisonment in the county jail, not exceeding twenty four hours for any transgression, as may by them be deemed necessary to enforce a due observance of the laws and ordinances of said town.

SEC. 7. *And be it further enacted*, That the intendant and council, in addition to the general powers conferred by the last section, shall have full power and authority to prevent and remove all nuisances at the expense of the person causing the same, or upon whose property it may be found; to license, tax and regulate theatrical and other shows and amusements, and the retailing spirituous and vinuous liquors within the corporation, (the tax upon retailers shall not be less than twenty nor more than five hundred dollars); to establish patrols and appoint captains for the same; to levy a tax not less than three no more than five dollars, upon

every person in said town, who is subject to do road duty, for the purpose of keeping in repair the streets, alleys, drains and bridges in said town, and the persons so taxed shall be exempt from further road duty; to license and regulate wagons, hacks, carts, drays, &c., running in said town.

SEC. 8. *And be it further enacted*, That the intendant of said town shall be *ex officio* justice of the peace, for the county of Wilcox, and may exercise all the powers and incur all the liabilities of justices of the peace for said county, and shall be entitled to receive for all services touching the violation of any of the laws and ordinances of said town, double the fees, and in all other cases, the same fees allowed by law to justices of the peace.

SEC. 9. *And be it further enacted*, That the board shall have power to allow such salary to the intendant for his services as they may deem right and proper, not exceeding three hundred dollars; may supply all vacancies happening in their body between the regular elections, and may appoint a treasurer, a marshal and such other officers as they may require, and shall affix such fees and regulations to such offices as they may deem necessary.

SEC. 10. *And be it further enacted*, That the intendant or any councilor shall have full power and authority to punish all violations of the laws and ordinances of said town; may impose the fines prescribed by said laws and ordinances; may commit to jail, and issue executions against the person and property of offenders.

SEC. 11. *And be it further enacted*, That the said board shall hold their meetings at least once in each month, at which the intendent shall preside, when present, and a majority of the board shall constitute a quorum for the transaction of business.

SEC. 12. *And be it further enacted*, That no by-law or ordinance must be enforced until it has been published at least one week in three public places in said town, or in a newspaper published in said town.

SEC. 13. *And be it further enacted*, That all laws and parts of laws coming in conflict with this act be, and the same are hereby repealed: *Provided, however*, That the passage of this act nor any provision therein contained, shall have the effect to release any person from any penalty incurred or contract entered into previous to the passage of this act.

APPROVED, February 8, 1858.

[No. 182.]

AN ACT

For the improvement of the Supreme Court Library.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of one thousand dollars is hereby appropriated, out of any monies in the treasury not otherwise appropriated, for the improvement of the Library of the Supreme Court, to be drawn for by the comptroller on the warrant of the chief justice of the said court, and the judges of the supreme court may exchange the Alabama Reports in the State Library for other law books, for the use of the Supreme Court Library; *Provided,* The amount expended in money or exchange on books shall not exceed one thousand dollars.

APPROVED, February 8, 1858.

[No. 183.]

AN ACT

To authorize the sheriff of Green county to summons a bailiff to attend on the chancery, probate and commissioners courts of said county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the sheriff of Green and Cherokee counties shall be, and they are hereby authorized to summons a bailiff to attend on the courts of county commissioners, chancery and probate of said counties, when the same may be necessary, who shall be entitled to the same compensation as bailiffs attending on the circuit courts, to be paid out of the county treasury.

APPROVED, February 1, 1858.

[No. 184.]

AN ACT

To abolish the December term of the chancery court in
in Marengo county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the December term of the chancery court for Marengo county be, and the same is hereby abolished.

APPROVED, December 18, 1857.

[No. 185.]

AN ACT

To amend the act of February 15, 1856, authorizing the
issuance of attachments out of chancery courts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall be lawful for registers in chancery to issue attachments in the cases and under the provisions made by the "act to authorize the issue of writs of attachments out of the courts of chancery," approved February 15, 1856, and said registers in chancery shall also be empowered to dissolve such attachments at any time in vacation, on the principal debtor furnishing the complainant ample indemnity against his liability, and paying all costs which have accrued on such attachment; *Provided,* That said act of February 15, 1856, shall be and remain in full force, except as herein amended, and nothing herein contained shall be construed to diminish the powers confided to chancellors by said act.

APPROVED, January 19, 1858.

[No. 186.]

AN ACT

Amendatory of the proceedings in chancery.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall not be a failure of any chancery court, if the chancellor shall open the same when it sits three or more days, by the third day, and if the court be not opened by three o'clock, P. M., of the third day, it shall be the duty of the sheriff to adjourn the same until the next regular term appointed by law.

SEC. 10. *Be it further enacted,* That sections 2883, 2893 and 2906 of the Code be, and the same are hereby repealed.

SEC. 3. *Be it further enacted,* That amendments to bills and answers shall be allowed at any time before final decree to meet the justice of the case, and amendments to bills shall be allowed by adding or striking out new parties complainant or defendant, and to meet any state of proof that shall authorize relief, and all amendments shall be allowed upon such terms as the chancellor shall deem just and equitable, but where an amendment of either a bill or answer shall be allowed at the hearing, the case shall stand continued as a matter of course, unless a continuance be waived by the parties, and both parties shall have the right to take additional testimony.

SEC. 4. *Be it further enacted,* That instead of decrees *pro confesso* being taken upon publication after thirty days' after publication has been perfected as prescribed by section 2938 of the Code, such decree may be entered at any time after thirty days from the period specified in the order of publication to answer, unless further time be obtained; *Provided,* That the publication required by the order shall have been perfected.

SEC. 5. *Be it further enacted,* That instead of requiring a defendant applying to answer, against whom there is a decree *pro confesso* upon personal service, to pay all the costs of the suit up to that time, before his answer can be filed as prescribed by section 2942 of the Code, that if such answer is sufficient, it can be filed upon such terms not extending beyond full costs, as the chancellor deems proper; and the said defendant may also plead or demur on such terms as the chancellor may order.

SEC. 6. *Be it further enacted,* That an appeal may be taken from any order or decree, made in vacation or term time, discharging any writ of *ne exeat*, equitable attach-

ment or writ of seizure, which shall be heard and determined at the first term as directed in injunction cases.

SEC. 7. *Be it further enacted*, That courts of chancery shall have all the powers which appertain to chancery courts, to enforce the execution of their process, and chancellors shall, whenever necessary, have full power to appoint a special officer to execute process on any sheriff, coroner, or perform any other special service.

SEC. 8. *Be it further enacted*, That this act shall apply to writs now pending, as well as writs brought hereafter.

APPROVED, February 8, 1858.

[No. 187.]

AN ACT

To authorize the removal of causes in the chancery courts in certain cases.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be the duty of the chancellors of the several divisions of this State, respectively, on the application of any party or his solicitor, in any cause which has been transferred from one chancery district to another, by consent or otherwise, because the chancellor had been of counsel or was otherwise interested in said cause, whenever such reason shall cease to exist, to order in vacation or in term time, the said cause to be returned to the district in which the bill was originally filed; and it shall thereupon be the duty of the register of the court to which such cause had been removed, to send to the register of the district in which the bill was originally filed, all the original papers in said cause and a certified transcript of all orders and decrees made in said cause while the case was in the district to which it had been removed, and the register of the court in which the bill was originally filed shall docket the case and transcribe said orders, and thereafter the court holden for the district in which the bill was originally filed, shall have as full and complete jurisdiction of said cause as if it had never been removed.

APPROVED, February 8, 1858.

[No. 188.]

AN ACT

To change the times of holding some of the Fall terms of of the chancery courts of the middle chancery division.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter, instead of the fall terms of the following chancery courts being held at the times now prescribed by law, that they shall be held at the times following in each and every year, namely: For the thirteenth district, composed of the county of Macon, on the second Monday of November in each and every year, and continue six days, if necessary; for the eleventh district, composed of the county of Russell, on the third Monday of November in each and every year, and continue three days if necessary; for the twelfth district, composed of the county of Chambers, on the Thursday after the third Monday of November, and continue three days if necessary; for the fourteenth district, composed of the county of Tallapoosa, on the fourth Monday in November, and continue three days if necessary; for the fifteenth district, composed of the county of Coosa on the Thursday after the fourth Monday in November, and continue three days if necessary; for the fortieth district, composed of the county of Autauga, which is hereby erected into a separate chancery district, at Kingston, on the first Monday after the fourth Monday of November, and may continue in session three days; for the twenty-fourth district, composed of the county of Shelby, on the Thursday after the first Monday after the fourth Monday of November, and continue three days if necessary; for the sixteenth district, composed of the county of Dallas, on the second Monday after the fourth Monday in November, and continue six days if necessary; for the seventeenth district, composed of the county of Perry, on the third Monday after the fourth Monday of November, and continue six days if necessary, and for the eighteenth district, composed of the county of Greene, on the third Monday of February, and continue until the business is disposed of.

APPROVED, February 6, 1858.

[No. 189.]

AN ACT

To create an additional term of the chancery court for the
84th district.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall be an additional term of the chancery court held for the thirty-fourth chancery division, to commence on Thursday before the first Monday in January next, and on Thursday before the first Monday in every January thereafter, and shall continue three days, unless the business thereof be sooner disposed of.

APPROVED, February 6, 1858.

[No. 190.]

AN ACT

To regulate the time of holding the chancery courts in the
counties of Barbour and Sumter.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the terms of the chancery court for the county of Barbour shall commence on Monday next after the first Monday in May, and Wednesday after the first Monday in November; for the county of Sumter on Monday after the fourth Monday in March, and the fourth Monday in August.

APPROVED, February 1, 1858.

[No. 191.]

AN ACT

To change the time of holding chancery court for the thirty-eighth and thirty-ninth districts, northern division of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the chancery court for the thirty-eighth district, northern division, shall be held on the 8th Monday after the fourth Monday in May, and for the thirty-ninth district on the seventh Monday after the fourth Monday in May.

APPROVED, February 8, 1858.

[No. 192.]

AN ACT

To change the time for holding the chancery courts for St. Clair county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the chancery court for the county of St. Clair shall be held on the fourth Mondays in January and July, in each year, and may continue three days at each term.

SEC. 2. *Be it further enacted,* That all laws and parts of laws, inconsistent with this act, be and the same are hereby repealed.

APPROVED, February 6, 1858.

[No. 193.]

AN ACT

To change the time of holding the circuit court of Montgomery county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the circuit court of Montgomery county shall be held in each year as follows: on the first Monday in June and on the first Monday in January.

SEC. 2. *Be it further enacted,* That the June term of said court may continue in session four weeks, and that the State docket shall be taken up for trial on the third week of said term. June term.

SEC. 3. *Be it further enacted,* That the January term of said court may continue in session until the business of the court is disposed of, and that the State docket shall be taken up for trial on the fourth week thereof. January term.

SEC. 4. *Be it further enacted,* That all process issued from, or returnable to, said court shall be considered and held as being returnable to the respective terms thereof, as fixed by this act.

SEC. 5. *Be it further enacted,* That the first term of said court, held under this act, shall be the June term, 1858; and that nothing herein contained shall be so construed as to require any term of said court to be held in January, 1858. June term.

APPROVED, January 14, 1858.

[No. 194.]

AN ACT

To allow magistrates and constables the same fees in Baldwin county, that sheriffs and clerks of the circuit court receive now by law for like services rendered.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act justices of the peace and constables, in Baldwin county, shall be allowed the same fees that clerks of the circuit court and sheriffs are now allowed by law in said county for like services rendered by them.

APPROVED, February 5, 1858.

[No. 195.]

AN ACT

To extend the fall term of the circuit court for Talladega county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the fall term of the circuit court, of Talladega county, may continue for four weeks, instead of three weeks, as now required by law.

APPROVED, January 26, 1858.

[No. 196.]

AN ACT

To consolidate the offices of judge of probate and clerk of the circuit court of Washington county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the judge of probate of Washington county, and his successors in office, be and they are hereby made eligible to hold the office of judge of probate and clerk of the circuit court of said county, and that the bonds of the office so consolidated shall be filed with the register in chancery of the district.

APPROVED, February 6, 1858.

[No. 197.]

AN ACT

To change the time of holding the circuit court of Marengo county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the circuit court for the county of Marengo shall be held on the

eight Monday after the fourth Monday in March and September.

SEC. 2. *Be it further enacted*, That all laws contravening the provisions of this act be, and the same are hereby repealed.

APPROVED, January 29, 1858.

[No. 198.]

AN ACT

To extend the fall term, 1857, of the circuit court of Marengo.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the fall term of the circuit court, for the county of Marengo, for the year 1857, may be continued in session until the business of the same is disposed of, and that the sheriff of said county summon such jurors, for the additional weeks of said term, as may be necessary.

APPROVED, November 14, 1857.

[No. 199.]

AN ACT

To provide for the pay of witnesses summoned to attend the circuit court of Covington county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, witnesses summoned to attend the circuit court of Covington county, shall receive the same compensation that is now allowed by the Code of Alabama.

SEC. 2. *Be it further enacted*, That all laws contravening the provisions of this act be, and the same are hereby repealed.

APPROVED, February 5, 1858.

[No. 200.]

AN ACT

To repeal an act to consolidate the offices of judge of probate and clerk of the circuit court of Hancock county, approved February 2, 1854.

Consolidate of
Act.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act to consolidate the offices of judge of probate and clerk of the circuit court of Hancock county, approved February 2, 1854, be and the same is hereby repealed.

Provided.

SEC. 2. *Be it further enacted,* That the provisions of the Code of Alabama, in reference to judges of probate and clerks of the circuit court, in the counties of this State, be applied to the county of Hancock: *Provided,* That the first election of the clerk of the circuit court, for said county, shall be held on the first Monday in August, 1858.

SEC. 3. *Be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be and the same are hereby repealed.

APPROVED, January 20, 1858.

[No. 201.]

AN ACT

To regulate the time of holding the circuit courts of the first judicial circuit.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the circuit courts for the first judicial circuit shall be held at the following times in the respective counties composing the same: commencing in the county of Coosa, on the second Monday in March and September, and may continue two weeks; in the county of Autauga on the fourth Monday in March and September, and may continue two weeks; in the county of Bibb on the second Monday after the fourth Monday in March and September, and may continue one week; in the county of Perry on the third Monday after the fourth Monday in March and September, and may continue three weeks; in the county of Marengo on the

sixth Monday after the fourth Monday in March and September, and may continue until the business is disposed of.

SEC. 2. *Be it further enacted*, That all executions, summons, subpoenas, writs, and other process, returnable to the circuit courts of the counties composing said circuit, shall be returnable to the terms of said circuit courts in accordance with the provisions fixed by this act. Process.

SEC. 3. *Be it further enacted*, That all laws and parts of laws, now existing, contravening the provisions of this act, be and the same are hereby repealed. Repealed.

APPROVED, December 18, 1857.

(No. 202.)

AN ACT

To repeal an act changing the time of holding the circuit courts of Jefferson and St. Clair, and extending the time for the county of St. Clair.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an act approved February 14th, 1856, entitled an act to change the time of holding the circuit courts of the counties of Jefferson and St. Clair, and to extend the time for the county of St. Clair, be, and the same is hereby repealed. One week.

SEC. 2. *Be it further enacted*, That from and after the passage of this act the circuit courts of Jefferson shall commence and be holden on the last Monday in February and August in each and every year, and may continue one week; and of the county of St. Clair shall commence and be holden on the first Monday in March and September in each and every year, and may continue one week.

SEC. 3. *Be it further enacted*, That all executions, writs, subpoenas and process of every kind made returnable to either of said courts, at the time now provided by law, shall be, and the same are hereby made returnable to said courts at the times prescribed by this act. Process.

APPROVED, December 2, 1857.

[No. 203.]

AN ACT

To change the time of holding the circuit courts of the counties of Blount, Walker, Marion and Fayette.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the circuit courts for the county of Blount shall be holden on the fourth Monday in March and September, and shall continue one week; in the county of Walker, on the first Monday after the fourth Monday in March and September, and shall continue one week; in the county of Marion, on the second Monday after the fourth Monday in March and September, and shall continue one week; in the county of Fayette, the third Monday after the fourth Monday in March and September, and shall continue one week.

Repealed.

SEC. 2. *Be it further enacted,* That all process returnable to either of said courts as now held, shall be returnable to the same at the time provided by the first section of this act, any law to the contrary notwithstanding.

APPROVED, January 13, 1858.

[No. 204.]

AN ACT

To change the time of holding the circuit courts in the fourth Judicial circuit of the State of Alabama.

Fourth circuit.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the circuit courts of the fourth judicial circuit, shall commence and be holden as follows: in the county of Limestone on the 2d Monday in March and September, and may continue one week; in the county of Lawrence, on the third Monday in March and September, and may continue one week; in the county of Franklin, on the 4th Monday in March and September, and may continue one week; in the county of Lauderdale, on the 1st Monday after the fourth Monday in March and September, and may continue one week; in the county of Morgan, on the second Monday after the fourth Monday in March and September, and may continue

one week; in the county of Hancock, on the third Monday after the fourth Monday in March and September, and may continue one week.

SEC. 2. *Be it further enacted*, That all executions, writs, subpoenas, and process of every kind, made returnable to any of said circuit courts, at the times now provided by law, shall be, and the same are hereby made returnable to said courts at the times prescribed by this act.

SEC. 3. *Be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

APPROVED, December 18, 1857.

[No. 205.]

AN ACT

To regulate the time for the taking up of the State docket for the trial of causes in the circuit courts for the 4th judicial circuit of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, the circuit courts of the 4th judicial circuit of the State of Alabama, the State docket shall be taken up for the trial of the causes therein, on such day as the presiding judge, shall at any time, after the opening of the court, direct.

SEC. 2. *Be it further enacted*, That all laws and parts of laws contravening the provisions of this act, be, and the same are hereby repealed.

APPROVED, January 27, 1858.

[No. 206.]

AN ACT

To extend the spring term of the circuit court of Choctaw county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the next term of the circuit court for the county of Choctaw shall convene on the fourth Monday of February next, and continue three weeks.

SEC. 2. *Be it further enacted,* That all new suits brought to said term of the court shall be returnable to the regular term of said court as now fixed by law.

SEC. 3. *Be it further enacted,* That the State docket shall be taken up on Monday of the third week of said term.

Special jury.

SEC. 4. *Be it further enacted,* That it shall be the duty of the judge of probate, sheriff, and clerk of said circuit court, as soon after the passage of this act as possible, to draw a special jury for said first week, in the manner now required by law in either case.

SEC. 5. *Be it further enacted,* That the grand jury for said term shall be empaneled on the first Monday of March, as now required by law.

SEC. 6. *And be it further enacted,* That the said provisions as to the session of the circuit court shall apply only to the next term.

APPROVED, February 3, 1858.

[No. 207.]

AN ACT

To regulate the times of holding the circuit courts of the counties of Wilcox, Lowndes and Dallas.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the circuit courts of the counties of Wilcox, Lowndes and Dallas, shall commence and be holden as follows: in the county of Wilcox on the second Monday after the fourth Monday in March and September, and may continue three weeks; in the county of Lowndes, on the fifth Monday after the fourth Monday in March and September, and may continue

two weeks; in the county of Dallas, on the 7th Monday after the fourth Monday in March and September, and may continue until the business thereof is disposed of.

SEC. 2. *Be it further enacted*, That all executions, writs, subpoenas and process of every kind, made returnable to any of said circuit courts, at the terms now provided by law, shall be, and the same are hereby made returnable to said courts at the times prescribed by this act.

SEC. 3. *Be it further enacted*, That from and after the passage of this, all laws and parts of laws conflicting with this act be, and are hereby repealed.

APPROVED, February 6, 1858.

[No. 208.]

AN ACT

To extend the fall term of the circuit court of Covington county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter the fall terms of the circuit court for the county of Covington, shall be commenced and held on the first Monday in September in each year, and may continue two weeks.

APPROVED, December 2, 1857.

[No. 209.]

AN ACT

To amend the law relative to the summoning of witnesses to the circuit court of Marengo county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That section 2206 of the Code, shall apply to the county of Marengo; and any special act contravening the provisions of said section be, and the same are hereby repealed.

APPROVED, January 27, 1858.

[No. 210.]

AN ACT

To change and regulate the time of holding the spring terms of the circuit courts in Madison, Marshall and Jackson counties.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the first day of January, 1859, the spring term of the circuit court of Madison county, shall commence on the third Monday in February, and continue in session two weeks; and that the spring term of the circuit court of Marshall county, shall commence on the second Monday after the third Monday in February, and continue in session two weeks, if necessary; and that the spring term of the circuit court of Jackson county, shall commence on the fourth Monday after the third Monday in February, and continue in session two weeks.

SEC. 2. *And be it further enacted,* That all executions, writs, subpoenas, and other process of every kind, made returnable to either of said courts, at the time now provided by law, shall be, and the same are hereby made returnable to said courts at the times prescribed by this act.

APPROVED, February 6, 1858.

[No. 211.]

AN ACT

To regulate appeals from probate courts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in addition to the cases in which appeals are now allowed, from the probate to the supreme court, (and which shall be governed by the law following the same,) appeals may be taken by either party, from any final judgment, order or decree, of the probate court to the supreme court, within twenty days from the time of rendering the same, upon such terms and conditions as are now prescribed by law, where an appeal is allowed from said court.

SEC. 2. *And be it further enacted,* That section 1891 of the Code be, and the same is so amended, as not to require a bill of exceptions upon any appeal from the probate to

the supreme court, when the error complained of appears upon the record.

SEC. 3. *And be it further enacted*, That whenever a final judgment, order or decree, shall be rendered by the probate court against any minor, an appeal therefrom may be taken by the guardian *adlitem*, next friend or general guardian of such minor in the name of the latter, such guardian *adlitem*, next friend, or general guardian, giving the bond required for that purpose.

APPROVED, December 12, 1857.

[No. 212.]

AN ACT

To authorize the judge of the probate court of Lawrence county to appoint William S. Puryear administrator of the estate of William Puryear, late of said county, dec'd.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That notwithstanding William S. Puryear, of the county of Lawrence, is under twenty one years of age, the judge of the probate court of said county of Lawrence be, and he is hereby authorized and empowered to appoint said William S. Puryear administrator on the estate of William Puryear, late of said county, deceased; *Provided*, That said William S. Puryear is in all other respects competent to discharge the duties of administrator of said estate. Provide.

SEC. 2. *And be it further enacted*, That upon said William S. Puryear being appointed said administrator of said decedent's estate, he shall give bond and security as is now Bond and security. by law required of all persons who are appointed administrators, and upon his giving said administration bond, all the rights, duties and liabilities shall devolve upon him, as administrator of said estate, as fully and effectually as if he were twenty-one years of age, and the same liabilities and responsibilities upon the said bond, shall attach both to the said Puryear and his securities, as if the said Puryear were twenty-one years of age, which liabilities and responsibilities may be enforced in the same manner as upon other bonds of administrators.

APPROVED, January 20, 1858.

[No. 213.]

AN ACT

To give the probate judge of St. Clair county, jurisdiction over the estate of John Dollar, late of Tuscaloosa county, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the probate judge of St. Clair county shall have full power and authority to grant letters of administration on the estate of John Dollar, late of the county of Tuscaloosa, deceased, and shall have as full jurisdiction over said administrator and the estate of said John Dollar, as if the said John Dollar at the time of his death had resided in the county of St. Clair.

SEC. 6. *And be it further enacted,* That all laws and parts of laws contravening the provisions of this act be, and the same are hereby repealed.

APPROVED, January 18, 1858.

[No. 214.]

AN ACT

To repeal an act to regulate the fees of the probate judge of Cherokee county in issuing marriage licenses.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled "an act to regulate the fees of the probate judge of Cherokee county, in issuing marriage license," approved 18th January, 1856, be and the same is hereby repealed.

APPROVED, December 3, 1857.

[No. 215.]

AN ACT

To authorize the probate court of Lowndes to grant letters of administration on the estate of John H. Cottingham.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the court of probate for the county of Lowndes have authority to grant letters of administration on the estate of John H. Cottingham, deceased, late of the county of Montgomery, and to do and perform all things necessary to settle and distribute the estate of the said John H. Cottingham, deceased, in accordance with the laws of the State of Alabama, as fully and effectually as if the said deceased had died a citizen of the county of Lowndes.

APPROVED, January 22, 1858.

[No. 216.]

AN ACT

To authorize the judge of probate in Baldwin county to keep his office within two miles of the court house in said county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the judge of probate in the county of Baldwin, shall be allowed to keep his office in two miles of the court house in said county, any law to the contrary notwithstanding.

APPROVED, February 5, 1858.

[No. 217.]

AN ACT

To allow the probate judge of Montgomery county to take jurisdiction of the estate of Wiggins W. Whitaker, deceased, of Autauga county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the judge of probate of the county of Autauga shall make a complete transcript, upon the application of the executor or administrator, of all the acts and proceedings of record in the court of probate for said county, respecting the administration of the estate of Wiggins W. Whitaker, deceased, and duly certify the same, and cause the transcript to be transmitted to the judge of probate of Montgomery county.

Minutes of the court.

SEC. 2. *Be it further enacted,* That whenever said transcript shall be delivered to the judge of probate of the county of Montgomery, he shall cause an entry thereof to be made on the minutes of the court of probate of said county of Montgomery, and thereupon the said court of probate of Montgomery county shall have jurisdiction of the administration of said estate, and is required to proceed therein in all matters as if the jurisdiction thereof had originally belonged to said probate of Montgomery county, and as if administration of said estate had been originally commenced in the probate court of said county of Montgomery.

Papers to be sent to Montgomery.

SEC. 3. *Be it further enacted,* That the judge of probate of Autauga county shall cause all papers on file in his office connected with said estate to be sealed up and safely transmitted to the judge of probate of Montgomery county, to be recorded and filed in the probate court of Montgomery county.

Proviso.

SEC. 4. *And be it further enacted,* That from and after the said transcript shall have been filed in the probate court of Montgomery county, and an entry thereof made on the minutes of said probate court of Montgomery county, the administration of said estate shall cease and determine in said county of Autauga; *Provided, however,* That all the costs or fees that may be due to the judge of probate of Autauga county shall first be paid; *Provided,* That the said probate judge of Montgomery county shall only charge such fees in the settlement of said estate as are allowed by the general fee bill.

APPROVED, February 3, 1858.

[No. 218.]

AN ACT

To regulate the fees of the judges of probate for Lowndes and Macon counties.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the judges of probate for Lowndes and Macon counties are entitled to receive for the services hereinafter mentioned, the fees thereto respectively annexed, and to more, to be paid, taxed and collected in the manner provided by law:

For all orders on presenting a will for probate.....	\$1 00
For examining witnesses, and order admitting will to probate, where the gross value of the estate is ten thousand dollars, or more.....	2 00
For like services where gross value of estate is less than ten thousand dollars.....	1 00
For presiding on the trial of a contested will where gross value of estate is ten thousand dollars or more	4 00
For like services where gross value of estate is less than ten thousand dollars.....	2 00
For any other jury trial.....	2 00
For granting letters testamentary or of administration where gross value of estate is ten thousand dollars or more.....	2 00
For like services where gross value of estate is less than ten thousand dollars.....	1 00
For taking, approving and recording bond, and entering order of appraisement.....	1 00
For granting order of appraisement.....	50
For granting order of sale of real or personal property, where the value of the property to be sold is ten thousand dollars or more.....	2 00
For like services, where value of property to be sold is less than ten thousand dollars.....	1 00
For issuing copy of order of appraisement or sale....	25
For order to record inventory, appraisement and sale, each.....	50
For order removing executors, administrators or guardians.....	2 00
For granting and issuing letters of guardianship, taking, approving and recording bond, where estate of ward is ten thousand dollars, or more.....	3 00
For like services where estate of ward is less than ten thousand dollars.....	1 50

For order appointing commissioners to divide real or personal estate, and for issuing writs to the sheriff, where property to be divided is of the value of ten thousand dollars or more.....	4 00
For like services where property to be divided is less than ten, and five thousand dollars or more.....	2 00
For like services, where property to be divided is less than five thousand dollars in value.....	1 00
For order on petition to sell real estate, appointing a day for hearing, and orders for notices, where estate petitioned to be sold is of the value of ten thousand dollars or more.....	2 00
For like services where value of estate petitioned to be sold is less than ten thousand dollars.....	1 00
For appointing all guardians <i>ad item</i> and giving notice to such guardian <i>ad litem</i>	1 00
For examining testimony and giving decree to sell land, where the land is of the value of ten thousand dollars or more.....	4 00
For like services where the value of the land is less than ten thousand dollars.....	2 00
For order approving sale and recording the same....	50
For hearing application for dower, issuing writ, entering all orders and allotting dower, where dower allotted is of the value of ten thousand dollars or more.....	4 00
For like services where value of dower allotted is less than ten thousand dollars.....	2 50
For examining, stating and reporting the accounts of executors, administrators, or guardians, for settlement, order appointing day for hearing, and copy for publication, where gross value of estate is ten thousand dollars or more.....	4 00
For like services in all other cases.....	2 00
For examining voucher, and allowing or rejecting such where estate is of the value of ten thousand dollars or more.....	10
For like services in all other cases.....	05
For making decrees on annual or partial settlements and order to record, where gross value of estate is ten thousand dollars or more.....	2 00
For like services where value of estate is less than ten thousand dollars.....	1 00
For making all entries, except decrees in final settlements, and order to record, where gross value of estate is ten thousand dollars or more.....	4 00

For like services where value of estate is less than ten thousand dollars.....	2 00
For each decree of distribution.....	50
For entering all necessary orders in relation to insolvent estates, for each order.....	20
For issuing notice to creditors, each notice.....	25
For decree in favor of creditor, each.....	25
For filing each claim in office and giving receipt therefor, to be paid by person filing claim.....	20
For issuing each writ, citation or notice required to be issued in pursuance of law.....	50
For approving every bond, except those of executors, administrators and guardians.....	50
For recording wills, inventories, appraisements, reports, decrees, and for recording conveyances, and all other instruments required by law to be recorded, for every hundred words.....	15
For each certificate, with or without seal of office....	50
For granting retail license and filing oath.....	3 00
For each other license, not otherwise provided for...	2 00
For order binding out apprentice.....	1 00
For commission to take depositions.....	1 00
For administering oaths not herein provided for....	25
For presiding in commissioners court, per day.....	2 00
But half the lowest rate of fees allowed the judge of probate upon the estates of decedents, must be charged by him where the estate is shown by appraisalment or settlement to be of less value than two hundred dollars, for all other official duties, for the compensation of which no express provision is made by law, such sum as may be allowed by the court of county commissioners for such services, to be paid out of the county treasury, not to exceed two hundred dollars.	

SEC. 2. *Be it further enacted*, That it shall be the duty of the clerks of the judges of probate of Lowndes and Macon counties to tax and collect all fees assessed by this act.

SEC. 3. *And be it further enacted*, That all laws and parts of laws coming in conflict with the provisions of this act be, and the same are hereby repealed.

APPROVED, February 6, 1858.

{No. 219.]

AN ACT

To enlarge the jurisdiction of the probate court of the several counties in this State.

Jurisdiction.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the judges of the probate court of the several counties in this State have full jurisdiction and authority to decree and order a division and partition of all property, whether the same be real, personal, or mixed, held by joint owners, or tenants, in common; and this act shall extend to and include all such cases where the property to be divided, or partitioned, is held and owned by parties of adult age, or where some are of full age and others are minors, or persons of unsound mind, or where they are all infants, or persons of unsound mind.

Judge of Probate.

Ten days' notice.

SEC. 2. *Be it further enacted,* That upon the petition, or application, in writing, of any of the parties in the first section of this act mentioned, or of his or her guardian, or other lawful representative, setting forth the property sought to be divided, or partitioned, the judge of probate shall, upon the filing of such petition, appoint a day for the hearing of the same, not less than thirty days from its filing. All parties in interest shall have at least ten days' notice of the time and place set for the hearing of such application, and in cases where infants, or persons of unsound mind, are parties, guardians *ad litem* must be appointed, by said probate court, to represent them.

Judge of Probate to decree.

SEC. 3. *Be it further enacted,* That if upon the hearing of such application, the judge of probate shall be satisfied, from the proof, that the property described in said petition is held and owned either jointly, or in common, he shall decree the same to be divided, or partitioned, amongst those entitled thereto, according to their respective interests therein; and, to effect said division, or partition, he shall appoint suitable commissioners, not more than five, any three of whom may act; and the division, or partition, shall be conducted in all respects, as nearly as may be, as is done when property in the hands of an executor, or administrator, is to be distributed, or divided.

Non-resident.

SEC. 4. *Be it further enacted,* That if any of the parties in interest are non-residents, whether they be adults, minors, or persons of unsound mind, they shall be made parties in the same manner, and to the same extent, as is

done when property in the hands of an executor, or administrator, is to be divided, or distributed.

SEC. 5. *Be it further enacted*, That in the event any of the parties interested in the property thus held in common, or jointly, should die, then in that event the provisions of this act shall fully apply to his or her executor, or administrator.

SEC. 6. *And be it further enacted*, That any of the parties in interest in said property so sought to be divided, or partitioned, may appeal to the supreme court, or to the circuit court of the county, at any time within six (6) months from any decree, or decision, of the judge of probate under the provisions of this act: *Provided*, Said party desiring to appeal shall give the said judge of probate notice thereof, and file his appeal bond within fifteen days after the rendition of the decree, or decision, which notice shall have the effect of suspending all proceedings for distribution, or division, until the expiration of six months from the date of the decree, or decision, or until the decree is finally decided: *And provided further*, That when the appeal is actually taken, the same citation and notice as is provided in section 3018 of the Code shall be issued and served as therein directed.

APPROVED, February 8, 1858.

[No. 220.]

AN ACT

To give the probate court of Dallas county jurisdiction over the estate of Calvin Norris, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the probate court of Dallas county shall have jurisdiction to grant letters of administration on the estate of Calvin Norris, deceased, late of Mobile county, and to proceed in the administration and settlement of said estate in all respects as if the said Calvin Norris had resided and died in Dallas county: *Provided*, That creditors of said estate, residing in Mobile county, may present their claims against said estate, by filing them in the office of the probate court of Mobile, and may sue on any such claim in the courts of Mobile county.

APPROVED, January 26, 1858.

[No. 221.]

AN ACT

To regulate the probate court of Franklin county.

Tuscumbia.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be lawful for, and the duty of, the judge of probate, of Franklin county, to hold regular terms of the court of probate, of said county, at the town of Tuscumbia, in said county, on the fourth Monday in February, April, June, August and December, in each year, for the transaction of any business of which said court has jurisdiction, and shall continue until the business is disposed of.

Minute docket.

SEC. 2. *Be it further enacted,* That said judge of probate may, when he may deem it necessary, hold special terms of said court in said town; that he shall keep a minute docket of all proceedings had in said court, in said town of Tuscumbia, but the final record shall be kept at the county seat of said county.

Notice.

SEC. 3. *And be it further enacted,* That in case special terms of said court be ordered, three days' notice of the same shall be given by the judge of probate, by publication in a newspaper published in the town of Tuscumbia, unless it be special terms holden for particular cases; in such cases the parties shall be personally notified thereof.

APPROVED, February 23, 1858.

[No. 222.]

AN ACT

To give the court of probate, for Greene county, jurisdiction of the estate of Caroline M. Goree, deceased, late of Perry county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the court of probate of the county of Greene, is hereby authorized to grant letters of administration on the estate of Caroline M. Goree, late of Perry county, deceased; and the court of probate, for said county of Perry, shall not take jurisdiction of said estate.

SEC. 2 *And be it further enacted,* That the said court of

probate, for the county of Greene, shall take jurisdiction of said estate in all respects as if the said decedent had, at her death, been a resident citizen of said county.

APPROVED, February 3, 1858.

[No. 223.]

AN ACT

To compel the court of county commissioners of Marshall county to levy a special tax for the purpose of paying the grand and petit jurors.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be, and is hereby made the duty of the court of county commissioners, for Marshall county, to levy a special tax for the purpose of paying the grand and petit jurors for the said county.

SEC. 2. *Be it further enacted*, That it shall be, and is hereby made the duty of the tax collector, to collect said tax and pay it over to the treasurer of said county.

SEC. 3. *And be it further enacted*, That it shall be, and is hereby made the duty of the county treasurer to pay the jury certificates in the order of their presentation.

APPROVED, February 8, 1858.

[No. 224.]

AN ACT

To give the commissioners' court of Perry county authority to relive Jas. Didlake.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the commissioners' court of Perry county be, and are, hereby authorized to make to James Didlake, such allowance for losses sustained by him, on the building of the court house of said county, as to them may seem just and proper.

APPROVED, December 16, 1857.

[No. 225.]

AN ACT

Authorizing the commissioners court to apply six hundred dollars, out of fines and forfeitures, to make the office of judge of probate, of Sumter county, fire proof.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the commissioners court, of the county of Sumter, be and they are hereby authorized to use the sum of six hundred dollars, out of the fund of fines and forfeitures, in the hands of the county treasurer of said county, to make the office of the probate court, of Sumter county, fire proof, for the more effectual preservation of the public records required to be kept in said office.

APPROVED, January 25, 1858.

[No. 226.]

AN ACT

To authorize the court of county commissioners of Marshall county to make appropriations for the relief of certain persons in said county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the court of county commissioners for the county of Marshall be, and they are hereby authorized to appropriate out of the county treasury, if they deem it advisable, the sum of four hundred and thirty-one dollars and thirty-five cents, it being an amount of expense and costs that has accrued to the justice of the peace, sheriff and guard, for arresting and bringing to justice sundry persons charged with the offence of conspiracy to kidnap and commit burglary.

APPROVED, February 8, 1858.

[No. 227.]

AN ACT

To increase the pay of the members of the commissioners' court of roads and revenue, of the county of Covington.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the members of the commissioners' court of roads and revenue of the county of Covington, shall each be allowed the sum of two dollars per day for their services, any law to the contrary notwithstanding.

APPROVED, February 2, 1858.

[No. 228.]

AN ACT

To amend an act to grant certain powers to the commissioners' court of roads and revenues, for the county of Lauderdale and other purposes, approved 31st of January, 1846.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That from and after the passage of this act, it shall not be lawful for the sheriff of Lauderdale county to receive, in payment of executions issued in the name of the State of Alabama to collect fines and forfeitures, any witness certificate due from the State of Alabama; but said witness certificates shall be filed with the county treasurer, who shall register the same, and pay the same out of any money in the treasury of said county not otherwise appropriated, according to their priority of registration: *Provided,* That this section of this act shall only apply to witness certificates issued after the passage hereof.

SEC. 2. *Be it further enacted,* That it is hereby made the duty of the county treasurer of Lauderdale county, to examine the execution docket of the circuit court of said county, and see that executions against persons convicted and fined, and against whom forfeitures are taken, and issued by the said clerk of said court, as provided by law, and where the same are not issued, he shall direct the clerk to issue the same, and if the clerk of the circuit court shall

fail or refuse so to do, then it shall be the duty of the county treasurer to require the attorney for the county to make all such motions against said clerk, as will secure the payment of said fines or forfeitures, and also to prosecute said clerk for the misdemeanor; for which services said attorney shall receive the usual compensation in such cases.

SEC. 3. *Be it further enacted*, That said commissioners' court of Lauderdale county, shall at their quarterly meeting in February, 1858, elect said county attorney, who shall hold his office for three years: *Provided*, That said commissioners' court may at any regular quarterly meeting fill a vacancy in said office. And the said county treasurer shall also require the sheriff of said county of Lauderdale, to pay over to him, on or before the first day of said court, the amount of all fines and forfeitures for which executions have been issued; and on his failure to do so, or his failure to make return of the same, at the time now required by law, then said county treasurer shall direct the county attorney to make all such motions against said sheriff and his securities, as will best insure the collection of said sums of money so due on said executions.

APPROVED, February 6, 1858.

[No. 229.]

AN ACT

Vesting certain powers in the commissioners' court of Coosa county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the commissioners' court of Coosa county is hereby vested with the power to apply any or all monies accruing on account of fines and forfeitures in the cases against Abel Brittan, Lewis Turner and George W. Hunter, to the payment of the losses sustained by William Conoway, tax collector of Coosa county; and the county treasurer, of said county, is hereby directed to pay over in obedience to the order of said court.

APPROVED, February 8, 1858.

[No. 230.]

AN ACT

To authorize the commissioners' court of Coffee county to pay to James D. McLean any monies to which he may be entitled for *ex officio* services as sheriff of said county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the commissioners' court of Coffee county, are hereby authorized to cause to be paid to James D. McLean all monies to which he may be entitled for *ex officio* services as sheriff of said county, and which said claim or claims are barred by section 775 of the Code, any law to the contrary notwithstanding.

APPROVED, January 29, 1858.

[No. 231.]

AN ACT

To provide for the pay of commissioners of roads and revenue, for Coffee county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, the commissioners of roads and revenue, for Coffee county, shall each receive two dollars per day, and milage as heretofore provided for by law, for each day's actual service by them rendered as such commissioners; all laws and parts of laws to the contrary notwithstanding.

APPROVED, February 6, 1858.

[No. 232.]

AN ACT

To regulate the pay of commissioners for the county of Winston.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the county commissioners, for the county of Winston, shall be entitled to receive one dollar per day for each day's service, and five cents per mile traveling to and from their respective courts; any law to the contrary notwithstanding.

APPROVED, February 4, 1858.

[No. 233.]

AN ACT

To increase the compensation of the members of the commissioners court, for the county of Pike.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the members of the commissioners court of roads and revenue, for the county of Pike, with the exception of the probate judge of said county, shall receive, for every day's service as commissioner, the sum of three dollars.

APPROVED, February 2, 1858.

[No. 234.]

AN ACT

To extend the jurisdiction of the commissioners court of DeKalb county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the commissioners court of roads and revenue, in and for the county of DeKalb, be and the same are hereby authorized and empowered, from and after the passage

of this act, to set apart a sufficient portion of the county taxes for the purpose of paying jurors who may hereafter be summoned and serve in any of the courts of law in said county.

SEC. 2. *Be it further enacted*, That said tax shall be collected in money and paid over to said county treasurer, and by him paid out for the purposes contemplated in the first section of this act; any law to the contrary notwithstanding.

APPROVED, February 6, 1858.

[No. 235.]

AN ACT

To amend the law in relation to appeals from justices' courts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That no cause shall be carried from a justice's court to the circuit court, either by certiorari or appeal, unless the party applying for such certiorari or appeal shall first execute a bond, or obligation, with sufficient securities, payable to the adverse party, conditioned to pay such judgment, both as to debt and costs, as may be rendered by the circuit court. Bond.

SEC. 2. *Be it further enacted*, That whenever it shall be made to appear to the circuit court, that such bond or security is defective, or insufficient, said court shall have the power to require a new bond, or new, or additional security, within such time as the judge may prescribe, and if not given, to dismiss such case, or render a judgment, as the circumstances may require. New bond.

APPROVED, February 6, 1858.

[No. 236.]

AN ACT

To authorize magistrates in beats numbers 4 and 5, to appoint special constables in said beats.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the magistrates in precincts numbers 4 and 5, of Montgomery county, shall be allowed to appoint a special constable, to act in addition to them already acting, and that he may so act until our next general election, that he be required to give bond and security, and that he may have authority to collect monies upon executions, and generally to perform all the duties that are required of constables who are regularly elected. This act shall take effect forthwith after its passage.

APPROVED, December 19, 1857.

[No. 237.]

AN ACT

To authorize justices of the peace to apportion hands on the roads in Pickens county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter it shall be the duty of the justices of the peace in and for the county of Pickens, on the first Monday in March, 1858, and every two years thereafter, in their respective precincts, to divide the election precincts into convenient road precincts, and to appoint an overseer to each road precinct, and to apportion the hands subject to do road duty among the overseers, as aforesaid, under the same rules and regulations as now prescribed by the Code.

SEC. 2 *Be it further enacted,* That said justices of the peace shall commission all overseers appointed by them, and deliver a list of hands apportioned to them, and shall act as special supervisors of the roads and parts of roads in their election precincts, and within thirty days after the apportionment of overseers, they must report to the judge of probate all persons appointed to the office of overseers, the time for which they were appointed, and the portions of roads allotted to them, and said justices shall report to the grand

Precincts.

Overseers.

jury at each term of the court the condition of the roads, and if any road, or parts of roads, has been neglected to return such overseer.

SEC. 3. *Be it further enacted*, That the overseers, when application is made to them, by any person belonging to their division, for a portion of road to be set apart for them to keep up, shall allot to the person so applying, such portion of a road, or roads, as would be all equal shares. All persons having their road set apart, as provided for in this section, shall be liable to the overseer for all fines and costs, with fifteen per cent. damages, which he may sustain by the neglect of such persons to keep their roads in order, to be recovered before any justice of the peace, or the circuit court when the amount is over fifty dollars, of said county, by said overseer. Fines and cost.

SEC. 4. *Be it further enacted*, That the justice of the peace failing to perform the acts required of him by this act shall be deemed guilty of a misdemeanor, and liable to be indicted.

SEC. 5. *Be it further enacted*, That the said justice of the peace shall receive for each day he is engaged in appointing overseers, apportioning hands, or revising the road, fifty cents each, and to the one who makes the report to the judge of probate and the grand jury, one dollar and fifty cents per day, to be allowed by the commissioners' court, and paid out of the county treasury. Apportion hands.

SEC. 6. *Be it further enacted*, That the amount now allowed to the judge of probate and sheriff for road services, contained in section 1186 of the Code, so far as it relates to Pickens county, with all other laws conflicting with the provisions of this act, are hereby repealed. Judge of Probate and sheriff.

APPROVED, January 16, 1858.

[No. 238.]

AN ACT

To require certain duties of justices of the peace for the county of Fayette.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter it shall be the duty of the justices of the peace in the county of Fayette, on the first Monday in March, 1858, and every two years thereafter, in their re-

spective precincts, to divide their election precincts into convenient road precincts, and to appoint an overseer to each road, and to apportion to each overseer his hands, under the same rules and regulations now prescribed by law.

List of hands.

SEC. 2. *Be it further enacted*, That the said justices shall commission all overseers appointed by them, and deliver a list of hands apportioned to each overseer to the judge of probate, within thirty days, with the names of overseers, and the road or roads allotted to each, and the time for which said overseer was appointed; and the said justices shall report to the grand jury, at each term of the circuit court, the condition of the roads, and if any road, or parts of roads, has been neglected, to return such overseer.

Portion road.

SEC. 3. *Be it further enacted*, That the overseer, when application is made to him by any person belonging to his division, for a portion of the road for them to keep up, the overseer shall set off to such person a reasonable portion of such road, or roads, and such person, or persons, shall be liable to the overseer for all fines and costs, with twenty per cent. damages, recoverable before any justice of the peace of said county.

Misdemeanor.

SEC. 4. *Be it further enacted*, That the justice of the peace failing to perform the duties required of him by this act shall be deemed guilty of a misdemeanor, and liable to be indicted.

Exempt from service.

SEC. 5. *Be it further enacted*, That the said justices shall receive one dollar per day for their services in apportioning hands, reviewing roads, apportioning overseers, &c., and shall be exempt from all other road service.

Probate and sheriff.

SEC. 6. *Be it further enacted*, That the amount now allowed to the judges of probate, and sheriffs, for road services, contained in section 1186 of the Code, so far as relates to the county of Fayette, be, and the same is hereby repealed.

APPROVED, February 2, 1858.

[No. 239.]

AN ACT

To authorize justices of the peace to appoint overseers of roads, and other purposes, in the county of Marion.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter it shall be the duty of the justices of the peace, or one of them, (when from any cause the other cannot attend,) in and for the county of Marion, on the first Monday in March next, and every two years thereafter, to meet in their respective precincts, or beats, and to appoint overseers for each road district, and alter said districts as convenience may require, and apportion all the hands subject to perform road duty in said beat, and perform all duties of apportioners as now required by law.

First Monday in March.

SEC. 2. *Be it further enacted,* That said justices shall issue a commission to such overseer, with a list of hands attached, directed to the constable of said precincts, or beats, who shall, within ten days thereafter, deliver the same to such overseer, or leave it at his usual place of residence.

Commission
overseers.

SEC. 3. *Be it further enacted,* That all laws now in force, as regards defaulters, and opening of new roads, or turning old ones, where it requires an order from the commissioners court, are now in force; and hereafter it shall not be lawful for the judge of probate, or sheriff of said county of Marion, to receive any allowances for performing road duty: *Provided,* The commissioners court may make such allowances as they may think proper to said officers for duties performed as to opening out new roads.

Commissioners
court.

SEC. 4. *Be it further enacted,* That said justices of the peace shall file a copy of the names, and districts of roads, each overseer they appoint, on or before the first day of the next circuit court, to be held in said county of Marion, to the judge of probate, for the inspection of the grand jury, and said justices shall fill all vacancies that may happen from any cause.

Overseers ap-
pointed.

SEC. 5. *Be it further enacted,* That all white males between the age of eighteen and forty-five, (public millers, and ministers of the gospel excepted) and all male slaves between the age of fifteen and sixty years of age, shall be subject to perform road duty in said county of Marion.

Persons exempt.

SEC. 6. *Be it further enacted,* That the commissioners court may make such allowances to said justices and constable as they may think reasonable for said services.

SEC. 7. *Be it further enacted*, That all laws and parts of laws, conflicting with the provisions of this act, be and the same are hereby repealed.

APPROVED, January 26, 1858.

[No. 240.]

AN ACT

To amend the criminal law in relation to rape, incest, and adultery.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That any slave, or free person of color, who falsely personates the husband of any married white woman, and thereby deceives her, and by means of such deception gains access to, and has carnal connexion with such married white woman, shall be deemed guilty of felony, and must, on conviction thereof, suffer death.

Slaves.

SEC. 2. *Be it further enacted*, That any slave, or free negro, who attempts to have carnal connexion with any married white woman, or attempts to gain access to her for the purpose of having carnal connexion with her, by falsely personating her husband, shall be deemed guilty of felony, and on conviction thereof must suffer death.

Married white woman.

SEC. 3. *Be it further enacted*, That any free white person who falsely personates the husband of any married white woman and thereby deceives her, and by means of such deception gains access to, and has carnal connexion with such married white woman, shall be deemed guilty of felony, and on conviction thereof must be imprisoned in the penitentiary not less than ten years; but no conviction under this section shall be had upon the unsupported evidence of the woman alone.

Carnal connexion.

Relationship.

SEC. 4. *Be it further enacted*, That persons within the degree of consanguinity, or relationship, within which marriages are declared by law to be incestuous and void, who have carnal connexion with each other, knowing of such consanguinity, or relationship, must, on conviction thereof, be imprisoned in the penitentiary not less than two, nor more than seven years.

SEC. 5. *Be it further enacted*, That any white person who lives in adultery, or fornication, with a slave, or free negro,

is liable to indictment, and on the first conviction must be fined in a sum not less than one hundred dollars, nor more than three hundred dollars, and may be imprisoned not exceeding six months on a second conviction with the same person, the offender must be fined not less than three hundred dollars, nor more than one thousand dollars, and may be imprisoned in the county jail not more than twelve months, and on a third, or any subsequent conviction with the same person, the offender must be imprisoned in the penitentiary for two years.

conviction.

Fined and imprisoned.

APPROVED, January 16, 1858.

[No. 241.]

AN ACT

To prevent betting at ten pins.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That section third of an act passed at the session 1853-4, entitled "An act to prevent the betting at pool tables and billiard tables," be amended by inserting after the word "billiards" in the second line of said third section the words, "at ten pins, or any such game."

APPROVED, February 8, 1858.

[No. 242.]

AN ACT

To pay witnesses before grand juries in Sumter county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be the duty of the county treasurer, of the county of Sumter, to pay out of any fines and forfeitures he may have in the treasury, all certificates issued by the clerk to witnesses before the grand juries in said county.

APPROVED, January 27, 1858

[No. 243.]

AN ACT

To extend the time for the payment of the balance of the principal of the debt due from the Mobile and Ohio Rail Road company, to the State of Alabama.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Governor of the State be, and he is hereby authorized and required to extend the time for the payment of the balance of the principal of the debt due from the Mobile and Ohio Rail Road company to the State, as follows: one-sixth of the balance of said principal to be paid on the first of January, 1860; one-sixth on the first of January, 1861; one-third thereof on the first of January, 1862, and the remaining third on the first of December, 1862: *Provided,* That the payment of the same, at the times and in the installments stated, shall be secured to the entire satisfaction of the Governor, and the Governor may require personal security for any part, or the whole of said debt, if in his opinion personal security is necessary to guard the State against loss: *And provided further,* That the said company shall continue to pay annually, on the first of January of each year, interest at the rate of eight per cent. instead of six per cent. on the entire amount of said balance of principal, and any failure to pay said interest, or installment of principal as aforesaid, shall so operate as to defeat the extension hereby allowed, and cause the principal of said debt to become due and payable as if this extension had not been allowed—the company to have the right to pay said debt before the times herein specified if they should prefer to do so.

SEC. 2. And be it further enacted, That the provisions of an act entitled an act for the further security and protection of the State in rail road loans, shall not apply to the extension hereby granted, or be required to be complied with by said Mobile and Ohio Rail Road company, in order to make the said extension of time for payment of said debt effectual.

SEC. 3. And be it further enacted, That as a condition of, and for the extension hereby granted, the said rail road company shall be, and is hereby required to pay, and refund to the State any sum which the State may be required to pay as fees of counsel, or attorney, in the suit of said company against the State, heretofore decided in the chan-

cery court and in the supreme court, as well as all costs thereon.

SEC. 4. *And be it it further enacted*, That the Governor, at the time of the extension of said loan by him, shall take an irrevocable power of attorney from said rail road company, authorizing the treasurer of the State of Alabama and the comptroller of the State, or either of them, in default of the payment of either the principal or interest that may accrue, to confess a judgment in the circuit court for Montgomery county, in favor of the State of Alabama against said company, for the amount that may be due and unpaid under the provisions of this act, and to continue, from time to time, to confess judgment for such amount as may be due and unpaid, either as principal or interest, and said comptroller, or treasurer, shall be required to confess judgment as provided in this section.

Power of attor'y.

Judgment.

SEC. 5. *Be it further enacted*, That nothing in this act shall be so construed as to operate as an extension of said debt, or to deprive the State of any of its rights or remedies, until the provisions of this act are assented to and complied with by said company, and the power of attorney made as provided for, and unless the same shall be done, on or before the first day of May, 1858, the said company shall in no case have the benefit of this act, nor shall said debt be extended at any time thereafter.

Rights or remedies.

SEC. 6. *And be it further enacted*, That whereas the loan to said company, by the State, was made in the notes of the State bank and branches, and doubts have arisen as to the legal validity of said loan, and it is desirable that such doubts should be removed, it is hereby declared and enacted that by the acceptance of the extension hereby granted and provided, the said rail road company shall waive, and be deemed to have waived, any defence or objection to, or against the validity of said loan, and shall never be allowed in any legal proceeding, by any plea or otherwise, to question or dispute the validity of said loan.

Accept extension

SEC. 7. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be and the same are hereby repealed: *Provided*, That the debt shall not be extended unless the Governor is satisfied that the debt and interest is made perfectly safe to the State.

Proviso.

APPROVED, February 5, 1858.

[No. 244.]

AN ACT

To regulate the endorsement of the bonds of the Alabama and Florida Rail Road company, by the Montgomery and West Point Rail Road company.

Bonds.

Interest.

Endorsement.

WHEREAS, By and under the authority vested in the Alabama and Florida Rail Road company by its charter to issue bonds, said company issued the sum of three hundred thousand dollars, in bonds of five hundred dollars each, said bonds bearing date the 30th day of January, 1857, payable ten years after the 1st day of July, 1857, bearing interest at the rate of eight per cent. per annum, payable quarterly at the Georgia Rail Road and Banking company, in the city of Augusta: AND WHEREAS, Said bonds, and the interest thereon, were guaranteed by the endorsement of the Montgomery and West Point Rail Road company, of the State of Alabama, and the Atlanta and La Grange Rail Road company, of the State of Georgia—

Montgomery and
West Point R. R.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the endorsement of said bonds, by the Montgomery and West Point Rail Road company, is hereby made valid and binding on said company: *Provided,* Said endorsement be ratified by the president and directors of said company.

APPROVED, January 11, 1858.

[No. 245.]

AN ACT

To appoint additional trustees of Howard College.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Alabama Baptist State convention be, and are hereby authorized to appoint ten additional trustees of Howard College: *Provided,* That, in their opinion, they may deem it the interest of the college to do so.

APPROVED, February 1, 1858.

[No. 246.]

AN ACT

To ratify and confirm the lease made by the trustees of the University of Alabama, of the old State House at Tuskalooşa.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the lease heretofore made by the trustees of the University of Alabama, to W. L. Whitfield and others, or to such corporation as the legislature may create and designate, be and the same is hereby ratified and confirmed unto "The Alabama Central Female College," for the term of ninety-nine years, upon the condition that the said building be repaired, and the said school, or college, be established within two years from the 16th day of July, 1857, and thereafter be permanently continued; and upon failure so to repair said building, and establish said school, or college, or if said building be so repaired, and said school, or college, so established, and afterwards abandoned, or permanently discontinued, then, in either of said events, the said buildings, and grounds, &c., shall revert to the University of Alabama, in the same manner as if the lease had not been made.

SEC. 2. *Be it further enacted,* That the trustees of the University of Alabama may make the lease herein confirmed renewable at the pleasure of the Alabama Central Female College, or such other modifications of such lease as may be mutually agreed upon.

SEC. 3. *Be it further enacted,* That in consideration of the lease herein confirmed, the said Alabama Central Female College shall, if there are applications therefor, receive and educate, free of charge for tuition, a number of indigent females, of good character, not at any one time to exceed five, the qualification and claims of the applicants to be decided by the faculty of said college.

APPROVED, January 26, 1858.

[No. 247.]

AN ACT

In relation to the estate of William Forbes, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the estate, both real and personal, of William Forbes, deceased, late of Clarke county, Alabama, shall descend to, and be distributed between his widow, Ann Forbes, and his child, John Forbes, in the same manner as if the said William Forbes, deceased, had been a natural born citizen of the United States; and that all rights and interest of this State in said property, by way of escheat, be relinquished to the said Ann and John Forbes, as aforesaid.

APPROVED, February 2, 1858.

[No. 248.]

AN ACT

In reference to the estate of Hillary Foster, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the judge of probate, of Mobile county, be and he is hereby authorized to grant letters of administration, *de bonis non*, with the will annexed, on the estate of Hillary Foster, deceased, late of said county, to Alexander Gordon Shepherd, the son-in-law of said Foster, without requiring said Shepherd to file an administrator's bond: *Provided, moreover,* That nothing in this act shall prevent the said probate judge, at any time after the grant of said letters, upon the application of any one interested in said estate, to require said Shepherd to enter into bond with approved security, in double the amount of the value of the personal property belonging to said estate, conditioned for the faithful discharge of the duties of such administration.

APPROVED, February 2, 1858.

[No. 249.]

AN ACT

To authorize A. M. Lewis, of Marengo county, to erect gates across a certain public road.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That A. M. Lewis, of the county of Marengo, is hereby authorized to erect and keep up a gate, or gates, across the public road, leading from Lewis' ferry, on the Tombigbee river, to Gaston, in Sumter county: *Provided,* That the said Lewis shall, at all times, keep such gate, or gates, in such repair as to be opened with ease by the traveling public.

APPROVED, February 3, 1858.

No. 250.]

AN ACT

To enable the quarter-master general of Alabama to rent an arsenal.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the quarter-master general of this State be, and he is hereby authorized to rent a room, or building, in the city of Montgomery, for an arsenal, the annual rent of which shall not exceed in amount the sum of three hundred dollars; and that to pay said rent, the comptroller of public accounts is hereby authorized and required to draw his warrant on the State treasurer in favor of said quarter-master general, at the expiration of each quarter of the year for the sum then due, the first quarter beginning on the first day of January, 1858.

APPROVED, February 4, 1858.

[No. 251.]

AN ACT

To authorize the successors of sheriffs to make conveyances in certain cases.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That if any sheriff, authorized by law to sell real estate under a writ of execution, or *vendition exponas*, shall sell said land, and die, or vacate his office, before making a conveyance to the purchaser thereof, it shall be lawful for the court from which the writ issues, upon proof of the sale and of the payment of the purchase money, to order that the successor in office of the sheriff making such sale, shall make a conveyance of such lands to the purchaser, and such conveyance shall relate back to the date of said sale.

SEC. 2. *Be it further enacted,* That if the purchaser at said sale be the plaintiff in the judgment, proof that he has credited, or the fact that he does credit on the record, the defendant with the amount of said purchase money, less the necessary expenses and costs, shall be equivalent to proof of payment of the purchase money.

SEC. 3. *And be it further enacted,* That this act be so construed as to embrace all cases in which the officer herein mentioned has failed to make conveyances as herein contemplated.

APPROVED, January 11, 1858.

[No. 252.]

AN ACT

To establish election precincts, and for other purposes.

Power of county
commissioners.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the several courts of county commissioners in this State, shall hereafter have the power to change, alter, or abolish the place of voting in the several election districts in their respective counties, and may also change, or alter, the boundary lines of such districts, or establish new districts and places of voting therein, whenever it shall appear to the satisfaction of such court that the convenience

of the voters, in such election precincts, would be promoted thereby: *Provided*, That no change made shall take effect unless done at least thirty days before any election.

SEC. 2. *And be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be and the same are hereby repealed.

APPROVED, February 3, 1858.

[No. 253.]

AN ACT

Requiring the quarter-master general to furnish the Southern Polytechnic Institute, at La Grange, Franklin county, Alabama, with a stand of muskets, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the quarter-master general of this State be, and he is hereby required to furnish the president and board of trustees, of the Southern Polytechnic Institute, at La Grange, Franklin county, Alabama, out of any arms in his official possession, or that may hereafter come into his official possession, as said quarter-master general, a stand of cadet muskets, or rifles, with all usual and necessary equipments, consisting of a number not less than one hundred and ten; and the said trustees may at any time exchange said arms for cadet muskets when the State is in possession of the same.

Quarter-master
to furnish arms.

SEC. 2. *And be it further enacted*, That the secretary of state be, and he is hereby required to furnish the said president and board of trustees, with one hundred copies of each and every work on military tactics which may be in the State library: *Provided*, That said board of trustees shall first give a good and sufficient bond, to be approved by the Governor, for the safe keeping and return of the arms and equipments herein provided for.

Secretary of
State.

APPROVED, February 6, 1858.

[No. 254.]

AN ACT

To authorize Richard J. Tarver, and others, to establish a ferry across the Alabama river, at Selma.

Toll. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Richard J. Tarver, Benjamin J. Tarver, N. H. R. Dawson, and Mary E. Dawson, his wife, of Dallas county, be and they are hereby authorized to establish a public ferry across the Alabama river, at Selma, at a place on said river where the present ferry is situated, and upon lands upon both sides of said river now owned by them; and they, their heirs, and assigns, are hereby authorized to charge such toll for crossing at said ferry as may from time to time be prescribed by the court of county commissioners of Dallas county.

Bond. SEC. 2. *Be it further enacted,* That the said Richard J. Tarver, Benjamin J. Tarver, N. H. R. Dawson, and Mary E. Dawson, his wife, their heirs and assigns, shall give bond and good security, payable to the county of Dallas, to be approved by the judge of probate of said county, with the same conditions as are now required of other keepers of public ferries in this State, which bond shall be renewed every ten years, unless otherwise required by the judge of probate for the want of sufficient security; any law to the contrary notwithstanding.

APPROVED, January 26, 1858.

[No. 255.]

AN ACT

Relating to building and loan associations.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the provisions of sections 1473, 1474, 1475, 1476, 1477, 1478, 1479, and 1480 of the Code of Alabama be, and are hereby extended to building and loan associations.

APPROVED, February 8, 1858.

[No. 256.]

AN ACT

To amend the insolvent debtors' law.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, section 2182 of the Code be so amended as to require the defendant, when under arrest and imprisonment in any civil case when he proposes to discharge himself under the provisions of the first paragraph of said section, to give the plaintiff, his agent or attorney, at least one day's notice of the time and place of making the affidavit presented in said section for his discharge from arrest, when the plaintiff, his agent, or attorney, may controvert the affidavit of the defendant by swearing, according to the best of his knowledge, information, and belief, it is untrue, which shall prevent the discharge of the defendant, under the first paragraph of said section of the Code, and thereupon a trial shall be had as now provided by law in cases where the schedule is controverted.

Amendment.

SEC. 2. *Be it further enacted,* That section 2183 of the Code be so amended as to require the plaintiff, his agent, or attorney, when controverting the truth of the defendant's schedule, to specify wherein said schedule is untrue, which specifications the jury shall try and no other.

APPROVED, January 20, 1858.

[No. 257.]

AN ACT

To authorize the trustees of township 14, of range 18, to collect notes due said township.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts, be and he is hereby authorized and required to turn over and deliver to the trustees of township number 14, of range number 18, in Lowndes county, all the notes now, or that may hereafter come into his possession, belonging to said township. And the said trustees are hereby authorized to collect, sue

for, and recover, the amount of said notes in their corporate name, or in the name of the State for their use.

Loan authorized

SEC. 2. *Be it further enacted*, That the amount realized from said notes by said trustees, shall be kept and preserved by them for the use of the school in said township, and they are hereby authorized and empowered to loan the same out annually, upon notes with two good and sufficient securities, and the interest arising therefrom, to apply to the object for which said fund is intended, in the manner now required of trustees of the different townships.

Bond.

SEC. 3. *Be it further enacted*, That before said comptroller shall turn over and deliver to said trustees the said notes, as required in the first section of this act, they shall execute a bond in double the amount of said notes, payable to the Governor of Alabama, with two or more good and sufficient surities, to be approved by the judge of probate court of Lowndes county, and certified by him to the comptroller of the State, conditioned upon the safe keeping, investment and faithful application of said sum of money; and that they will pay over and deliver to their successors in office, when qualified by executing a like bond, the said principle sum of money and interest, that they may have in hand unappropriated, or any notes, bills or bonds, or other evidences of debt, that they may have in lieu of said principle sum, and that they faithfully discharge all the duties of trustees so long as they continue in office, or continue to discharge any of such duties. And such trustees and their surities shall continue liable upon said bond until they have accounted satisfactorially to their successors, and until their successors have given a similar bond approved by the said judge of probate.

Bond.

SEC. 4. *Be it further enacted*, That when either of said trustees dies, or resigns, or is removed from office, and a successor is elected in his stead, it shall be the duty of said person so succeeding him to execute with his co-trustees, a bond in the amount and with the conditions, and payable and approved as provided in the preceding section.

Comptroller.

SEC. 5. *Be it further enacted*, That whenever said trustees shall produce and exhibit to the comptroller, a certificate from the probate judge of said county, certifying that they had given the bond required in section three of this act, it shall be his duty to turn over and deliver to them the said notes, as provided in the first section, and take their receipt for the same.

SEC. 6. *Be it further enacted*, That said trustees or their successors, so long as they continue in office, shall make

good to fund at least 8 per cent. interest per annum, and that they shall be liable for the loss of any part of said fund, no matter how occasioned.

SEC. 7. *And be it further enacted*, That all laws and parts of laws contrary to the provisions of this act, so far as the township hereinbefore named, is concerned be, and the same is hereby repealed.

APPROVED, February 5, 1858.

[No. 258.]

AN ACT

To provide for the election of two additional trustees for the University of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That section 834 of the Code of Alabama be so amended as to provide for the election of four trustees for the University of Alabama, from the judicial circuit in which the University is located, and the additional number of trustees so to be elected, shall not alter the number now required to constitute a quorum of the board of trustees: *Provided*, Only two of the trustees in the third circuit, at any time, shall be residents of Tuscaloosa county.

APPROVED, January 28, 1858.

[No. 259.]

AN ACT

To authorize the intendant of the town of Decatur, in the county of Morgan, to subscribe to the capital stock of the Tennessee and Alabama Central Rail Road, and for other purposes.

WHEREAS, The town of Decatur, in the county of Morgan, is incorporated by the name and style of the Intendant and Councilmen of the town of Decatur: AND WHEREAS, A petition signed by ninety-three of the legal voters, residing within the corporate limits of said town, was presented

to the intendant and councilmen thereof, praying that said intendant would subscribe for, and on behalf of said corporation, the sum of ten thousand dollars to the capital stock of the Tennessee and Alabama Central Rail Road company, and submit said subscription to the legal voters, residing within the corporate limits of said town of Decatur, for approval and ratification: AND WHEREAS, The said intendant did subscribe said sum of ten thousand dollars to the capital stock of said rail road company, and the said intendant and councilmen, of said town of Decatur, did thereafter submit said subscription to the legal voters, residing within the corporate limits of said town of Decatur, for approval, and which said subscription was by them approved of, assented to, and agreed upon, at an election held in said town for that purpose, on the 25th day of August, 1856, by over two-thirds of the voters in said town, therefore—

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in pursuance of the wishes of the people residing within the corporate limits of said town of Decatur, county of Morgan, as expressed at the said election held for that purpose, the said intendant of the said town of Decatur be, and he is hereby authorized, empowered and required, for and on behalf of said corporation of Decatur, to subscribe for stock in the Tennessee and Alabama Central Rail Road company, to the amount of ten thousand dollars, (\$10,000) to be raised in the manner, and upon the condition, hereinafter expressed.

Intendant to subscribe for stock.

SEC. 2. *Be it further enacted,* That the manner of making said subscription shall be as follows: the intendant of said town of Decatur shall write on the subscription list, of stock subscribed to said rail road company, the incorporated name of said town of Decatur for the sum of ten thousand dollars, (\$10,000,) and shall thereto attach his name, with his official designation, and thereupon the rights of the said rail road company, and the obligation on said corporation of Decatur, shall fully attach for the purposes aforesaid.

Duty of Intendant.

SEC. 3. *Be it further enacted,* That the intendant and councilmen, of said town of Decatur, are hereby fully authorized, empowered and required to make and establish such laws, and ordinances, for said corporation of Decatur, as will enable it to assess and collect, on all property within the corporate limits of said town, which by law is now

Ordinances.

taxable, a special tax sufficient in amount to pay off and discharge the said subscription of ten thousand dollars to the said Tennessee and Alabama Central Rail Road company: *Provided, however,* That all of said subscription shall be applied to the construction of that part of the said Tennessee and Alabama Central Rail Road, which lies between said town of Decatur and the Tennessee State line: *And provided further,* That not more than two thousand dollars shall be raised and collected by taxation, for the purpose of paying said subscription in any one year; but nothing in this proviso contained shall be so construed as to prevent the corporate authorities of said town of Decatur from assessing and collecting such additional taxes as they are, by existing laws, already entitled to levy and collect. Taxation.

SEC. 4. *Be it further enacted,* That the officer, or person, authorized to collect the said tax for the payment of said subscription, shall be required to give bond and security, in such sum as the corporate authorities of said town of Decatur may designate, which said bond shall be conditioned faithfully to pay over, and account for, all taxes by him collected, to the corporate authorities of said town of Decatur; and the said tax collector shall, whenever he collects such tax, give to each tax payer a receipt therefor, specifying in said receipt that it is given for said rail road tax, and the said receipt shall be transferrable; and all persons holding these receipts to the amount of a share of stock in said Tennessee and Alabama Central Rail Road company, shall, on presentation of the same, be entitled to receive a certificate of stock to that amount, to be issued to the person holding such receipt by the officers of said rail road company, authorized to make such certificate: *Provided, however,* That said certificate of stock shall not issue until the said corporation of Decatur shall pay to said rail road company the entire amount of the subscription made by said corporation of Decatur to said rail road company. Bond.
Tax payer to have receipt.

APPROVED, February 6, 1858.

[No. 260.]

AN ACT

To authorize Robert T. Dade to transfer certain slaves to Henry C. Mitchell, a minor.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Robert T. Dade, administrator of the estate of Jacob Mitchell, late of the county of Mobile, deceased, be, and he is hereby authorized to deliver to Henry C. Mitchell, one of the heirs of said Jacob Mitchell, the slaves allotted to Henry C. Mitchell on the division of said estate.

Remove slaves.

SEC. 2. *And be it further enacted*, That said Henry C. Mitchell be, and he is hereby authorized to receive said slaves from said administrator, to receipt therefor, and to remove the said slaves to the State of Mississippi, as fully as if he were twenty-one years of age; and that the delivery of said slaves to him by said Robert T. Dade, and his receipt therefor, be a full and effectual discharge of the said Robert T. Dade, as administrator aforesaid, from further accounting for said slaves: *Provided, however*, That this act shall in no wise be construed to affect the liability of the said Robert T. Dade, as administrator aforesaid, to account to said Henry C. Mitchell for any property, monies or effects to which said Henry C. may be entitled as one of the distributees of said estate, other than the slaves aforesaid.

APPROVED, January 14, 1858.

[No. 261.]

AN ACT

To authorize L. V. Underwood to hire out the slaves of his wards, in certain counties in Mississippi.

May hire slaves.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, L. V. Underwood, guardian of the minor heirs of William T. Harwell, deceased, be, and he is hereby authorized in his discretion, to hire out the slaves belonging to his said wards in the counties of Kemper, Noxubee, or Lauderdale in the State of Mississippi: *Provided*, That the securities on the guardian bonds of said Underwood, shall consent in writing

to such hiring, which shall be deposited with the judge of the probate court for Sumter county: *And provided further,* That before such hiring, he shall take good and sufficient security in the county of Sumter, for the delivery to him of said slaves at the expiration of the term for which they were hired.

APPROVED, January 9, 1858.

[No. 262.]

AN ACT

To authorize Edward R. Stanley to lease the lands of his ward.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Edward R. Stanley, guardian of Joseph M. Faircloth, of the county of Lawrence be, and he is hereby empowered to lease out the lands belonging to said ward, either publicly or privately, for any term of years not to exceed five: *Provided,* That the rents accruing upon said lease shall be due and payable to said guardian annually: *Provided, further,* That it shall be the duty of said guardian, annually, to make and return inventories, as is now required by law, where lands are rented for one year.

APPROVED, December 17, 1857.

[No. 263.]

AN ACT

To authorize A. D. Cary, judge of probate of Conecuh county, to act as such in a certain case therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, A. D. Cary, judge of probate in and for Conecuh county be, and he is hereby authorized and empowered to act as such in the settlement of the estate of Tabitha Brantly, deceased, late of said county.

SEC. 2. *Be it further enacted*, That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed.

APPROVED, January 22, 1858.

[No. 264.]

AN ACT

To authorize James H. Weaver to have the roof and plastering of the capitol repaired.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That James H. Weaver be, and he is hereby authorized to have the roof of the capitol thoroughly repaired; and that he be authorized also, to have the necessary repairs in the plastering of the building, and that the comptroller be authorized to draw his warrant on the treasurer in favor of James H. Weaver for the amount necessary to pay for said repairs.

APPROVED, January 26, 1858.

[No. 265.]

AN ACT

To transfer certain property to the University of Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the apparatus, chemicals, &c., purchased by M. Tuomy, late State geologist, for the use of the late geological survey of the State of Alabama, and used in connection therewith, and the specimens of rocks, minerals and soils collected by him or his assistants, during said survey, be, and the same are hereby assigned and transferred to the University of Alabama; *Provided*, That nothing herein contained shall be so construed as to prevent the use of the property above assigned for any future geological survey of the State which may be authorized by legislative enactments.

APPROVED, February 6, 1858.

[No. 266.]

AN ACT

To prevent nuisances and illegal trafficking with slaves.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the keeping of every house in this State where spirituous liquors are sold, retailed or given away, and which slaves or free persons of color habitually visit, assemble or stop at, or loiter about, is hereby declared to be a public nuisance; *Provided,* The general reputation of such house, or of the keepers thereof, as to trading or trafficking with slaves, is bad.

SEC. 2. *Be it further enacted,* That every person who keeps or engages in the keeping of any such house, shall be liable to indictment therefor, and upon conviction thereof shall be fined for the first offence in any sum the jury trying the case may assess, not less than fifty dollars nor more than two hundred dollars, and for the second and every subsequent offence shall be fined not less than two hundred dollars nor more than one thousand dollars, and be imprisoned in the common jail of the county not less than ten days nor more than six months, one or both, in the discretion of the jury trying the offence; *Provided,* The person so convicted the second time for the same offence, shall not have license granted him or her again in the same county.

SEC. 3. *Be it further enacted,* That in all prosecutions under this act, it shall be sufficient for the indictment to state that the defendant before the finding of the indictment, kept or was engaged in the keeping of a public nuisance, by having permitted slaves or free persons of color, habitually to visit, assemble, or stop at, or loiter about the house or premises kept or occupied by the defendant.

SEC. 4. *Be it further enacted,* That before any conviction can be had in any prosecution under this act, it shall be incumbent on the State to prove by three or more respectable witnesses that the general reputation of the house or of the keeper thereof, for the keeping of which the indictment is found, as to trading or trafficking illegally with slaves, is bad.

SEC. 5. *Be it further enacted,* That nothing in this act contained shall be construed as a repeal of any of the laws now in force in relation to prosecutions for trading or trafficking with slaves.

APPROVED, February 6, 1858.

[No. 267.]

AN ACT

To provide for binding the manuscript acts of the legislature.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it be, and is hereby made the duty of the secretary of state, to have the manuscript acts of the General Assembly of the State of Alabama, of past sessions, bound and indexed in appropriate volumes, and that it shall be his duty to have the manuscript acts of the present and future sessions similarly bound.

SEC. 2. *Be it further enacted,* That it shall be the duty of the comptroller of the State to draw his warrant upon the treasury for the cost of such binding, to be paid out of any money in the treasury, not otherwise appropriated.

APPROVED, January 25, 1858.

[No. 268.]

AN ACT

To reprint certain volumes of the Alabama Reports.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened.* That it shall be the duty of the secretary of state, within three months after the passage of this act, to ascertain the names and numbers of such volumes of the reports of the decisions of the supreme court of this State, as are now out of print, or of which the supply is exhausted, and of which the State has the proprietary interest by copyright or otherwise, and that he be, and is hereby authorized to grant free of charge by the State, to any printer or other person within the State the right to reprint and publish such volumes as he may thus find to be out of print, or the supply of which is exhausted; *Provided,* That such printer or other person shall accept the terms prescribed by this act within six months after the passage hereof.

Duty of Secretary of State.

SEC. 2. *Be it further enacted,* That if said printer or other person within this State shall accept the terms prescribed by the foregoing section, within the time therein expressed, that then the secretary of state shall have authority to grant to any printer or other person without the State, the same

right and upon the same terms and conditions that are specified in section one, except that such printer or other person without the State, shall be permitted to accept the proposal of the secretary of state at any time after the expiration of six and before the expiration of twelve months from the passage hereof.

SEC. 3. *Be it further enacted*, That if any printer or other person shall accept the terms as prescribed in either of the two foregoing sections, that such printer or other person shall obligate himself in the sum of five hundred dollars, payable to the secretary of state, for the use of the State of Alabama, conditioned, that he will reprint and publish such volumes of the reports of the supreme court of Alabama, as are designated in section one hereof, and that such volumes shall correspond in size, style, binding and paging, at least on marginal paging, with the respective volumes of which they may be reprints, and that he will reprint and furnish at his own cost, such volumes, at a price not exceeding six dollars per volume, and that he will have such volumes ready for sale within two years from the time of his acceptance of the terms of this act.

Bond of Printer

Price.

APPROVED, February 6, 1858.

[No. 269.]

AN ACT

To authorize L. A. Watson to keep a ferry without license.

SECTION 1. *Be it enveted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Lilla A. Watson, of the county of Tuscaloosa, be, and he is hereby authorized to keep a ferry on the Warrior river, at the mouth of North river, in Tuscaloosa county, without taking out a license for the same.

APPROVED, February 6, 1858.

[No. 270.]

AN ACT

To authorize James H. Clanton, executor, to erect gates on a certain public road therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, James H. Clanton, executor of Nathaniel H. Clanton, deceased, is hereby authorized to erect gates across the public road now leading from Franklin, in Macon county, to the Tuskegee and Montgomery public roads, at any point he may select where said road runs or is located on the lands of said N. H. Clanton, deceased, the gates to be free from toll; any law, usage or custom to the contrary notwithstanding.

APPROVED, February 6, 1858.

[No. 271.]

AN ACT

In reference to school lands belonging to inhabitants of certain townships in this State, located in the States of Arkansas and Louisiana.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Governor of said State is hereby authorized to appoint an agent, whose duty it shall be to examine the lands located in the State of Arkansas and Louisiana, for the benefit of the inhabitants of certain townships within the Chickasaw cession, in lieu of certain reservations on 16th sections, by the General Government, whose duty it shall be, after a careful examination thereof, to value each piece or subdivision of said lands, and report thereon, in writing to the Governor, setting forth the quality and value of the same.

Governor to appoint agent.

Prices.

SEC. 2. *Be it further enacted,* That it shall be the duty of the Governor, after the reception of said report and valuation as aforesaid, to fix minimum prices, upon said lands, and thereupon order the same to be sold by said agent, at public sale, at such place as he may direct, upon giving three months notice, in one or more newspapers published nearest the locality of said lands, and also, by such other

notice posted upon the lands, one or both as the Governor shall deem proper.

SEC. 3. *Be it further enacted*, That said agent shall give bond and security in the sum of ——— thousand dollars, to be approved by the Governor, conditioned for the faithful performance of the duties herein required, and to account for all monies, notes and other evidences of debt arising from the sale of said lands. Bond.

SEC. 4. *Be it further enacted*, That said lands shall be sold on a credit of one, two, and three years, and notes for the purchase money thereof, taken with two good securities by the agent, payable to the Governor of the State of Alabama, with interest from date, at the legal rate of interest existing in the State where the lands sold may be situated. Notes and security.

SEC. 5. *Be it further enacted*, That on the sale of said lands, or any portion thereof, said agent shall give a certificate of purchase, and when full payment is made, the Governor is authorized to make titles to said lands to the purchaser, or their assignees in the same manner that titles are now made to purchasers of 16th section lands in this State. Certificate of purchase.

SEC. 6. *Be it further enacted*, That when any of the lands offered for sale as aforesaid, fail to bring the minimum price fixed by the Governor as aforesaid, it shall be his duty, if he deems it best, to reduce the price of lands, and order another sale of the same.

SEC. 7. *Be it further enacted*, That the compensation of said agent, shall be fixed by the Governor, to be paid out of the contingent fund, and that said compensation together with all costs which shall accrue to the State, on account of said sales, shall be refunded by the townships, to be benefited pro rata. Compensation of agent.

SEC. 8. *Be it further enacted*, That when said purchase money shall be collected, it shall be divided pro rata, among the different townships intitled to the same, and such pro rata shares shall be paid over to the school trustees of the respective townships entitled to the same, and it shall be the duty of said trustees to invest the same on good and sufficient securities for the benefit of education in such townships, and apply the interest accruing thereon in the manner now provided for in the acts in force establishing a system of free public schools. Duty of trustees.

APPROVED, February 6, 1858.

[No. 272.]

AN ACT

To prevent the sale of ardent spirits at or within two miles of the Athens academy, in the town of Ramah, Montgomery county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, any person or persons selling or giving away ardent spirits at or within two miles of the Athens academy, in the town of Ramah, in Montgomery county, shall be subject to indictment, and upon conviction, may be fined in a sum not less than two nor more than five hundred dollars: *Provided,* The provisions of this act shall not apply to any person who has license at this time, until the expiration of the same.

APPROVED, February 2, 1858.

[No. 273.]

AN ACT

To regulate the retailing of spirituous liquors on steamboats and water crafts in Alabama.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act that all licenses granted by the probate courts of this State, to retail spirituous liquors on steamboats and water crafts, as provided for in section 397 of the Code of Alabama, shall be granted on the application and only in the name of the captain of such steamboat or water craft.

License.

SEC. 2. *Be it further enacted,* That the license aforesaid, may be obtained in any county of this State, which license when framed and shall be hung up in a conspicuous place in the bar room of such steamboat or water craft for which such license has been obtained, anywhere within the State of Alabama.

SEC. 3. *Be it further enacted,* That any captain of any steamboat or other water craft, who knowingly permits the retailing of spirituous liquors on the boat or water craft, of which he has control, without first obtaining license as

Penalty.

herein provided for, shall be liable to all the penalties now attached to the violation of the license laws of this State.

APPROVED, February 8, 1858.

[No. 274.]

AN ACT

To prevent the adulteration of liquors, &c.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, any person engaged in the manufacture or distillation of spirituous or malt liquors in this State, who shall wilfully use tobacco, strychnine, or any other poisonous, or unwholesome substance in the manufacture of such liquors as aforesaid, shall be subject to indictment, and upon conviction thereof before any of the circuit courts of this State, be fined in a sum not less than one hundred dollars, and may be imprisoned for the term of six months, at the discretion of said courts. Fine.

SEC. 2. *Be it further enacted,* That any person who shall knowingly and intentionally, buy or sell any spirituous or malt liquors, which are adulterated with such poisonous substances as aforesaid, shall upon trial and conviction therefor, be fined in a sum not exceeding five hundred dollars, and may be imprisoned for the term of twelve months.

APPROVED, January 20, 1858.

[No. 275.]

AN ACT

To prevent the sale of spirituous liquors to slaves by boatmen.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That no captain or other person in command of any steamboat, barge, flat boat or other water craft, running or trading upon any of the waters of this State, shall give or

Steamboat.

deliver any brandy, whisky, wine or other spirituous liquors to any slave not employed on said boat, or permit or allow the same to be done by any other officer, steward, bar-keeper, or employee on said boat, and for every violation of the provisions of this act, such captain or other person in command or having charge of such boat or vessel, shall be liable to indictment, and on conviction thereof, shall be fined not less than fifty nor more than one hundred dollars.

indictment.

SEC. 2. *Be it further enacted*, That in all indictments under this act, it shall only be necessary to charge that such captain or other person having charge of such boat or vessel, permitted or allowed spirituous liquors to be sold, given or delivered to a slave, and proof that a person of color, not an employee on said boat, obtained spirituous liquors from on board said boat or vessel, or from any person connected therewith as officer, steward, bar-keeper or employee, or was seen coming off said boat with spirituous liquors, shall be *prima facie* evidence of the guilt of such captain or other person having charge of such boat or other water craft, without proving the name or owner of such colored person, or that he or she was in fact a slave, or any other proof whatever.

APPROVED, February 6, 1858.

[No. 276.]

AN ACT

To prevent the sale of intoxicating liquors in one mile and a half of the Burnt Corn Academy, at Burnt Corn in Monroe county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That no person or persons shall sell or dispose of any spirituous or intoxicating liquors within one mile and a half of the Burnt Corn Academy, located at Burnt Corn, situated on or near the line between Monroe and Conecuh counties.

SEC. 2. *Be it further enacted*, That any person or persons, offending against the provisions of this act, or in any wise giving away, or disposing of spirituous liquors of any kind, except for medical purposes, with intent to evade the same,

shall be guilty of a misdemeanor, and subject to indictment, and upon conviction shall be fined fifty dollars for every such offence. Penalty.

APPROVED, February 6, 1858.

[No. 277.]

AN ACT

To prevent the sale of spirituous liquors within certain limits.

WHEREAS, The peace and good order of the town "New Market" and its vicinity, in the county of Madison, have heretofore been greatly disturbed by the traffic in intoxicating liquors; AND WHEREAS, The prosperity of the school therein located require the prohibition of said traffic:—

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall not be lawful for any person or persons to sell, vend, exchange or barter away, for money or other consideration of value, or for the promise or expectation thereof, within the corporate limits of said town of New Market, or within a distance of three miles in any direction from said corporate limits, any brandy, gin, rum, whisky, wine or other spirituous or vinous or intoxicating liquors in any quantity large or small, and any person so violating the provisions of the this act, shall be liable to be indicted by the grand jury of said county, and on conviction shall for the first offence be fined in a sum not less than fifty nor more than one hundred dollars, and for the second, and for every subsequent offence, shall in addition to said fine, be imprisoned in the county jail three months. Sale of liquor prohibited.

SEC. 2. *Be it further enacted,* That it shall not be lawful hereafter for the probate court of said county to grant any license to any person or persons, to sell, barter or exchange any spirituous or vinous liquors contrary to the provisions of the first section of this act.

SEC. 3. *Be it further enacted,* That nothing herein contained shall be so construed as to prevent physicians from administering to their patients, vinous or spirituous liquors.

SEC. 4. *Be it further enacted,* That this act shall be deemed

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Provided.

and considered in law a public act, and shall be judicially taken notice of without being specially pleaded: *Provided*, That this act shall not be construed to prevent any licensed retailer within the limits named in the bill, from continuing to retail under said license until the same expires by its own limitation.

APPROVED, February 5, 1858.

[No. 278.]

AN ACT

To regulate the practice in partition suits.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That in all suits for partition of lands or real estate commenced in any court of chancery in this State, if the defendant denies by his answer the title of the complainant, it shall not be necessary for the chancellor to dismiss the bill or delay the suit until a trial can be instituted and had at law, but in such case, the issue between the parties as to the title of the complainant, may if the chancellor so directs, be tried as other issues out of chancery, according to the provisions of section 3001, 3002, and 3003 of the Code of Alabama.

APPROVED, February 6, 1858.

[No. 279.]

AN ACT

To reduce costs in the settlement of insolvent estates, and to provide for recording deeds.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That for the notices to creditors of insolvent estates, required by sections 1832 and 1839 of the Code of Alabama, the judges of probate, shall be entitled to tax, and receive for each notice, twenty-five cents, instead of the fee now allowed by law. Judge of probate.

SEC. 2. *Be it further enacted,* That the said judges of probate, are authorized to demand that the fees for recording deeds, or conveyances, be paid when the deed or conveyance is deposited in their offices for record, and they may refuse to endorse said deed "filed," or to record the same, until the legal fees therefor be paid.

SEC. 3. *Be it further enacted,* That all laws conflicting herewith are repealed.

APPROVED, December 9, 1857.

[No. 280.]

AN ACT

To amend the Military Code of Alabama, to secure the return of the strength and condition of the militia of the State, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Military Code of this State be, and the same is hereby amended by inserting after word "notice" where it occurs in the last line of the fourth section of chapter II, "by public advertisement set up in at least three public places in his beat." Amend section 1, of chapter V, of said Code, by striking out the word "executive" wherever it occurs, and insert "adjutant general;" and after the word "purpose" where it occurs in the eighth line of the third paragraph of the said chapter, insert "and by the 20th of October in each and every year, shall transmit by mail, to the office of the adjutant and inspector general, a fair and correct copy, certified on honor, of such ab-

Amendment.

Military code
amended.

tract." At the end of the fifth chapter amend by adding "twenty dollars, which shall be taxed in the bill of cost, and collected and paid as solicitors' fees in criminal cases are now collected and paid. No allowance or payment of salary, or compensation, shall be made to the adjutant and inspector general, until the Governor shall certify that said adjutant and inspector general has made to him, the Governor, a report of the strength and condition of the militia, and certified all defaulting major generals, as required by the foregoing provisions of this chapter." At the end of section 7, chapter XII, amend by adding "and issue special orders to each commandant of a volunteer company in his regiment to cause his command to appear at the time and place of such review; and cause the public arms to be inspected, by the assistant adjutant general of his brigade, and if such arms, on such inspection, are found to be out of order, to cause that fact to be certified to the quarter master general, who shall, if such certificate shows the arms to be seriously damaged, take immediate steps to preserve or recover them, and institute proceedings to recover proper damages, as now provided for by law." And amend further by adding at the end of chapter XIII, "*Provided*, That the commandants of companies shall not be required to return a list of fines to the paymaster of the regiment, but shall themselves perform all the duties of paymasters so far as relates to the collection of fines assessed against defaulters at their own musters, and certify annually, by the first day of November, to the paymaster of the proper regiment, what amount of fines has been collected in their respective beats, and to what purpose applied, since their last annual report, or since the first day of November preceding; and the misapplication of the funds coming into the hands of the commandant of a company, under the provisions of this section, shall be cause of removal from office of such officer."

Salary of quarter
master.

SEC. 2. *Be it further enacted*, That for the discharge of the duties required of the quarter master general by section 9, of chapter XII, of the Military Code, he shall receive a salary of three hundred dollars per annum, to be paid as other salaries of State officers are paid; and that said quarter master general be authorized to employ an armorer to keep the public arms now in or which may hereafter be returned to the arsenal, in good order, and that the sum of one hundred and fifty dollars is hereby appropriated to pay said armorer, which shall be drawn quarterly by said quar-

ter master general in the same manner as his salary above specified is drawn.

SEC. 3. *Be it further enacted*, That all laws and parts of laws militating against this act be and they are hereby repealed.

APPROVED, February 1, 1858.

[No. 281.]

AN ACT

To authorize the removal of the estate of Anson R. Brackett, a minor, from Sumter county, Alabama, to Washington county, in the State of New York.

WHEREAS, Jonathan Bliss, of Sumter county, is guardian of Anson R. Brackett, a minor about two years of age, by appointment of the probate court of said Sumter county, and has the estate of said minor in his possession; AND, WHEREAS, since the appointment of said Bliss as such guardian, the mother of said minor has removed with him to Washington county, in the State of New York; AND, WHEREAS, Charlotte A. Brackett, the mother of said minor, and Elisha Billings, his grandfather, have been appointed guardians for him by the supreme court of the State of New York; AND, WHEREAS, the said Charlotte A. Brackett, as such guardians, desire to remove the estate of said minor, from said county of Sumter, to said county of Washington, in the State of New York, where they and the said minor reside; AND, WHEREAS, this cannot be done, under the provisions of sections 2031 and 2032 of the Code of Alabama, or any other law of this State:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That upon the filing in the said probate court of Sumter county, of a transcript, pursuant to section 2033 of the Code of Alabama, showing the appointment by the supreme court of the State of New York, of Charlotte A. Brackett and Elisha Billings, as guardians of the said Anson R. Brackett, their qualification as such, and their having given bond with surety, for the performance of their trust, they shall be authorized to receive from the said Jonathan Bliss, and to remove to said Washington county, all

Conditions.

the estate of the said minor, in his hands, or for which he is responsible, and the said Bliss shall be authorized to make a final settlement of his guardianship of said minor, with the said probate court, and to deliver over to the said Charlotte A. Brackett and Elisha Billings, or their agent or attorney, all the money, choses in action, or other estate of said minor, in his hands, or found upon a settlement made by him to be due from him, as guardian of the said minor.

SEC. 2. *And be it further enacted*, That upon a settlement by said Bliss, and a delivery over of the estate of said minor, in conformity with the provisions of the first section of this act, the said Bliss, and his sureties on his bond as guardian of said minor, shall be forever discharged from any liability on said bonds, or for any estate of the said minor.

APPROVED, February 8, 1858.

Release.

(No. 282.)

AN ACT

To authorize administrators of insolvent estates to maintain actions for the recovery of lands in certain cases.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the administrator of an insolvent estate may maintain an action for the recovery of the lands of the estate in every case in which such action might be maintained by him if the estate were solvent.

APPROVED, February 8, 1858.

[No. 283.]

AN ACT

To authorize Lemuel A. Gilkey, judge of probate of Pickens county, to act as guardian of Walter M. Gilkey, a minor.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Lemuel A. Gilkey, judge of probate for Pickens county, be authorized to take out from the office of the register of the 20th chancery district, of the middle division of the State of Alabama, letters of guardianship on the person and property of Walter Mims Gilkey, minor son of William M. Gilkey, late of said county, deceased. Letters of guardianship.

SEC 2. *Be it further enacted,* That the said Lemuel A. Gilkey shall give bond, to be approved by said register, in double the amount of the value of the estate of said minor, and shall make annual and final settlements with said register in such manner as other guardians are, or may by law be required to make with the courts of probate, and shall conform in all respects to the laws in relation to guardians and wards, except as is otherwise directed in this act. Bond.

SEC. 3. *Be it further enacted,* That the decrees of the register of said district on the settlement of the account of said guardian, shall have the same effect and force, as decrees of the courts of probate, and execution may in like manner issue thereon, and the said register, shall have, generally, in relation to said guardian and ward, all the powers which are, or may be by law, given to the judges or courts of probate in matters of the estates of minors, and appeals may be taken from the decisions, judgments or decrees of the said register, by either party, as appeals may be taken from the courts of probate. Decrees of register.

SEC. 4. *Be it further enacted,* That in the event of the death of the said guardian, the register aforesaid, shall have full power to settle up his guardianship with his personal representative in all respects as is now, or may hereafter be provided by law for settlements in such cases before the probate court. Power of register

APPROVED, January 20, 1858.

[No. 284.]

AN ACT

To authorize the administrator of Richard Morton, deceased, late of Autauga county, to sell the negro property belonging to said estate.

Sale.

Proviso.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That John Wood, the administrator of the estate of Richard Morton, late of Autauga county, deceased, be, and he is hereby authorized and empowered to sell at public outcry, at such times and places, within the limits of this State, as he may think most to the interest of the estate, all the negro property belonging to the estate of said deceased, on a credit of twelve months from the date of sale; *Provided,* That the said Wood shall require the purchasers of said negroes to execute to him their promissory notes for the amount of his or their purchase or purchases, with at least two good and approved securities.

Duty of Adm'r.

SEC. 2. *Be it further enacted,* That upon the purchaser or purchasers complying with the terms of sale, by executing their promissory notes in accordance with the requirements of the first section of this act, it shall be the duty of said administrator to execute bills of sale to said purchasers which shall vest in said purchasers a full and complete title to the property so purchased.

SEC. 3. *Be it further enacted,* That the said administrator shall account to the probate court of said county of Autauga, for the proceeds of the sale of said property in the same manner as administrators or executors are required by law to account for the sale of personal property, for distribution.

APPROVED, January 13, 1858.

[No. 285.]

AN ACT

To provide for the administration on the estate of John Troup, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That on the resignation of the present administrator on the estate of John Troup, deceased, and on Elizabeth J.

S. Troup, qualifying as now provided, and required by law, as administratrix *de bonis non*, on the estate of said John Troup, deceased, it shall be lawful for said Elizabeth J. S. Troup, as such administratrix, to keep the estate, real and personal, of said John Troup, deceased, together, until her marriage, or in the event she should not marry, until the arrival at full age of John W. Troup, the minor child of said intestate; that as such administratrix, she shall use the slaves, stock, farming utensils, and property of like kind in cultivating the lands of said intestate, accounting for the crops annually raised, and shall have power to sell any surplus produce, the crops of cotton and any of the stock, and to purchase any stock or farming utensils which may become necessary in keeping up and continuing the plantation, and shall be authorized to support and maintain herself and said minor child, from the proceeds of the crops raised on said plantation, in a prudent, economical manner, keeping a correct account of the sums of money expended for said minor, and account to said minor on final settlement for half of the proceeds of the crops sold, and other profits of the estate, and crediting herself with all sums properly expended for said minor, and during the continuance of planting and keeping said estate together, under this act, her dower shall not be assigned, nor any division made of the property of said intestate, nor shall any charge be made, or claim be preferred by said widow for the rents of the lands of said intestate. On the arrival at full age of said minor child, or the marriage of said widow, a final settlement shall be made by said widow of her administration, and her dower assigned, and a division had of the personalty of said intestate, and the income of said estate under the administration of said estate, pursuant to this act, shall be distributed to said minor child and said widow, respectively, in proportion to their respective interest in said estate.

Powers of Administratrix.

Final settlement.

APPROVED, January 20, 1858.

[No. 256.]

AN ACT

To prescribe the duties, rights and liabilities of general administrators where they resign their office.

Resignation.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the resignation of his office by any general administrator, shall not operate to discharge him from the administration of the estate previously committed to his charge as such general administrator, but he may proceed, notwithstanding such resignation, to administer and finally settle the same, in all respects, as if he had not resigned his said office, and his securities upon his bond as general administrator, shall be liable for any and all acts of mal-administration on such estates, committed after his resignation, to the same extent in all respects, as if he had not resigned; *Provided, however,* That he may be removed from the administration of any or all of such estate, for any of the causes now prescribed by law, or may resign his administration thereon, by leave of the probate court of his county.

Judge of probate.

SEC. 2. *Be it further enacted,* That upon the resignation of any general administrator of his office, as above provided, the judge of the probate court of the proper county, shall proceed to appoint some other suitable person general administrator in and for said county, who shall give bonds as now required by law, and take the administration of such estates as may thereafter be committed to his charge by the probate court of his county.

APPROVED, December 12, 1857.

[No. 287.]

AN ACT

To regulate sales by the general administrator of Mobile county, and for other purposes.

Public Auction.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all sales of any property which may be required to be made at public auction, in the county of Mobile, by virtue of any will or under an order of the probate court, shall be made by any person who may, at the time of any

such sale, be the general administrator in and for said county; it shall be the duty of the person making such sale, at the request of any representative or other person at whose instance a sale may be ordered, to give the requisite notice and make the proper advertisement thereof, and to file the account of such sale, and to make report of the same in writing and under oath or affirmation; for his services under this section, such general administrator shall receive one and one-half of one per cent. on the gross amount of all such sales made by him, to be paid by the representative at whose instance the sale may have been made, or allowed by said court against the proceeds of any such sale, or estate; nothing in this act shall prevent any representative from making his own sales, free of charge to the estate he represents. Advertisement.

SEC. 2. *Be it further enacted*, That the person who may at any time be appointed to act as probate clerk in the county of Mobile, under subdivision five of section 674 of the Code, may be authorized, in the order of his appointment, by the judge of probate of said county, to make all advertisements, to issue all notices, citations, subpoenas, executions, commissions, and any other process which may be required in course of any proceeding in said court or before said judge, or which may be necessary to enforce any order or decree of said court or judge, in the name of said clerk, the said judge to be responsible in the premises however, according to said subdivision five; such clerk is also authorized to tax all costs incurred in any proceeding had in said court, or before said judge, said judge always being responsible therefor, and the same always being subject to retaxation before the judge of the city or circuit courts of said county, at chambers in vacation, or in open court, when any party in interest shall desire it, one day's notice of such intended retaxation being first given to such clerk or to such judge; said judge may have judgment against said clerk for any misfeasance or malfeasance in office to his injury, upon giving five days' notice, by complaint and summons in the ordinary form. Probate clerk.
One day's notice.

SEC. 3. *Be it further enacted*, That the probate judge of Mobile county, shall be required to keep a substantially bound book, made of the proper paper, for the purpose of recording of maps or plots of land, in which he shall record all maps or plots relating to land in said county, which may be brought to him for record, except where such maps or plots are attached to or refer to some written instrument, and which may be required to be recorded with such instru- Maps or plots

ment; the fee for recording maps or plots shall be twenty-five cents for each lot of land or subdivision marked off on such map or plat.

SEC. 4. *Be it further enacted*, That copies of such maps or plats as may be recorded under the last preceding section of this act, certified by said judge as recorded deeds are now required to be certified, shall be received in evidence, and have the effect as certified copies of recorded deeds.

APPROVED, December 8, 1857.

[No. 288.]

AN ACT

To authorize the executrix of B. W. Mangum to sell real estate of deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the judge of probate for the county of Lowndes be, and he is hereby authorized upon application of the executrix of Bushrod W. Mangum, deceased, upon giving the notice required by section 1869 of the Code of Alabama, and pursuing the other requisitions required in said section, to grant to said executrix an order to sell the real estate of said deceased, either publicly or privately, and upon such terms as said judge shall direct, for re-investment in other lands.

Sell real estate.

SEC. 2. *Be it further enacted*, That upon the payment of the purchase money by such purchaser, it shall be the duty of such executrix to make deeds of conveyance to such purchaser which shall vest in such purchaser a full and complete title to the real estate so purchased.

SEC. 3. *Be it further enacted*, That said executrix be, and she is hereby authorized to invest the proceeds of such sale in other real estate, and shall make return of such purchase to the probate court of said county, and the real estate so purchased by said executrix shall vest in the beneficiaries under the will of said deceased in the same manner and to the same extent, as if the same had been owned by said deceased and devised by him in said will.

Invest proceeds.

APPROVED, February 8, 1858.

[No. 289.]

AN ACT

To better ascertain the advancements made to legatees, or distributees, by the testator, or intestate, in his life-time.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter, at any time previous to the distribution of the estate of any deceased person, among the heirs-at-law, or legatees, on the application of the executor, or administrator, or of any one interested in the estate, to the probate court of the county in which letters testamentary, or of administration were granted, alleging, on oath, that advancements had been made to any one of the distributees, or heirs, in the life-time of the testator, or intestate, and that the value of such advancements is not expressed in any conveyance within the knowledge of the person making such application, or that no charge was made by the testator, or intestate, as is provided for by section 1585 of the Code of Alabama, it shall be the duty of the probate judge to issue "citation" to such distributee, or heir, if a resident of the State, requiring him, or them, within a time to be specified by said probate judge, not less than thirty, nor more than sixty days, to report, on oath, a list of the property received by him, or them, the time and value of the same, when received; or to answer said application, on oath, denying that he, or they, have received any advancements from the testator, or intestate, in his lifetime; and in case such distributee, or heir, is a non-resident, notice shall be given him, or them, by publication, for three successive weeks in some newspaper published in the county where letters testamentary, or of administration, issued, requiring such non-resident, distributee, or heir, to report, or answer, within a time to be prescribed by the judge of probate, not less than forty, nor more than ninety days.

SEC. 2. *And be it further enacted,* That in case of the death of any distributee, or heir, alleged to have received advancements, his legal representatives, or heirs-at-law, shall be required to report, or answer, in the same manner as set forth in the first section of this act, and citations to issue to them, in case they are residents of the State, and publication, in case they are non-residents, as provided for in cases embraced under the first section of this act; and in case any of the heirs-at-law of such deceased distributee, or heir, are minors, then it shall be the duty of the probate judge to appoint a suitable guardian *ad litem* for such minors, who

shall deny the allegations and averments set forth in said application, and require proof as to all the matters set forth in said application.

Heirs at law.

SEC. 3. *And be it further enacted*, That upon the rendition of the report, or answer of the distributee, or heir, alleged to have received advancements, as required by the first section of this act, or upon the rendition of a report, or answer by the legal representative, or heirs-at-law of a deceased distributee, or heir, as required by the second section of this act, if the executor, or administrator, or any of the parties interested in said estate, are not satisfied with the report, on the ground that the same does not set forth all the property received or advanced, or does not set forth the true value of the same at the time the same was advanced or received, or are not satisfied that the answer returned is true, then, in either of these events, the judge of probate shall set a day, at such time as he may think proper, for the hearing and determining according to evidence, as to the amount of property advanced, the time and value of the same, when received, and he shall be required to give all the parties interested, notice of such objection, and of the time set for the hearing of the same, by citation, or by publication in some newspaper published in the county, for such a length of time as he may think proper.

Notice.

Citation served.

Evidence.

SEC. 4. *And be it further enacted*, That in case any distributee, or heir, or the legal representative, or heirs-at-law of any distributee, or heir, alleged to have received advancements, as set forth in the above sections, on whom a citation has been personally served, as required by the first and second sections of this act, fails, or neglects to return a report, as required, or fails to answer said application, denying that he, or they, have received any advancements, such failure, or neglect to report, or answer, shall be considered by the probate court as *prima facie* evidence of such person or persons having received his or their full proportionate part of said estate; and in case any non-resident, against whom publication has been made, as required by the first and second sections of this act, shall fail, or neglect to return a report, as required, or to answer said application, denying that he has any advancements, the court may proceed to take evidence *ex parte* as to the matters alleged in such application.

APPROVED, February 8, 1858.

[No. 290.]

AN ACT

To amend the law as to executors and administrators.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That whenever any person engaged in mercantile business in this State shall die, leaving a stock of goods, wares, or merchandize, and leaving no surviving partner in said business, it shall, and may be lawful for the executor, or administrator of such decedent, to sell such stock of goods, wares, or merchandize, either at public or private sale, and either at wholesale or retail, upon first obtaining an order for such sale, in the manner hereinafter provided, from the probate court which granted his letters testamentary, or of administration. Executors and administrators.

SEC. 3. *Be it further enacted,* That to obtain such order of sale, the executor, or administrator, applying for such order, must file in said probate court, an application in writing, setting forth with reasonable certainty, the kind, quantity, and estimated value of said goods, wares, or merchandize, and any facts, or circumstances, which may render necessary, or expedient, which application must be verified by oath of the executor, or administrator, and upon such application, if it shall appear to the said probate court that it would be to the interest of those interested in the estate that such order should be made, the court shall make such order, and may, in its discretion, prescribe such terms and conditions of the sale, as may seem to the court most proper and advantageous to those interested in the estate: *Provided, however,* That all sales authorized by this act shall be made within one year from the making of such order, and that the executor, or administrator, shall make due returns of such sales, in the manner now provided by law for making returns of sales of other personal property by an executor or administrator. Goods.

SEC. 3. *Be it further enacted,* That all laws and parts of laws contrary to the provisions of this act, be, and the same are hereby repealed.

APPROVED, February 5, 1858.

[No. 291.]

AN ACT

To amend the law in regard to bail in civil cases.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the defendant in any civil action, who is absconding, may be held to bail in any county in this State, where he may be arrested; but the plaintiff, or his agent, must make affidavit before the clerk of the court, or some judicial officer, of the amount of the indebtedness of the defendant, and in addition thereto, make oath, in writing, that the defendant is so absconding.

SEC. 2. *Be it further enacted,* That upon making such affidavit, and oath, and giving security for costs, the plaintiff shall be entitled to all the powers, privileges, and rights, conferred on plaintiffs by sections 2275, 2176, and 2177 (or any other law which now is, or may hereafter be in force, in relation to bail in civil cases) of the Code of Alabama.

APPROVED, January 20, 1858.

[No. 292.]

AN ACT

To amend the law in relation to admission to practice in the courts of this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall be lawful for circuit judges, and chancellors, to license persons of less than twenty-one years to practice in all the courts of this State, except the supreme court, upon such persons complying fully with all the other requirements of the law, if, in the judgment of such judge, or chancellor, the maturity, character, and attainments of such persons shall make it right and proper to dispense with the legal requirements as to age: *Provided,* It shall not be lawful for any person so licensed, to plead infancy, in bar of any claim against him personally, or as an attorney at law, or solicitor in chancery.

APPROVED, February 1, 1858.

[No. 293.]

AN ACT

To authorize Philip A. Fitts to practice law in all the courts of this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the supreme court of this State, be, and they are hereby authorized to license Philip A. Fitts to practice law in all the courts of this State, notwithstanding his minority, upon his complying with the requirements of the Code of Alabama in all other respects: *Provided,* That it shall not be lawful for the said Philip A. Fitts to plead infancy in bar of any liabilities incurred by him, either personally, or as an attorney at law.

APPROVED, February 5, 1858.

[No. 294.]

AN ACT

To provide for the transfer of all matters relating to the school funds, from the State bank and branches to the office of the superintendent of education.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be the duty of the commissioners and trustees of the State Bank and Branches to deliver, or cause to be delivered, by the first day of March, 1858, at the office of the superintendent of education, all books, documents, or notes, or other evidences of debt, relating to the sixteenth section funds that may be in the possession of said bank.

Books and documents.

SEC. 2. *Be it further enacted* That it shall be the duty of the superintendent of education to collect all debts due to the said bank and branches, payable for the purchase of school lands, and to hold attorneys, into whose hands notes have been placed for suit, responsible for the same, and for this purpose he is hereby invested with all the powers in reference thereto, which has hitherto belonged to the said State bank and branches.

Attorneys.

SEC. 3. *Be it further enacted,* That the said superintendent of education shall immediately pay over the money received from the collection of said notes, to the state treasurer,

Proviso.

and shall be liable, with his securities on his official bond, for the faithful discharge of the duties imposed upon him by this act: *Provided*, That the provisions of this act shall not interfere with or empower the superintendent to collect any monies loaned out by the trustees in any township in this State, as heretofore authorized by law.

APPROVED, February 6, 1858.

[No. 295.]

AN ACT

To require the president and directors of the Tennessee and Coosa Rail Road company to report semi-annually to the Governor.

Report.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the president and directors of the Tennessee and Coosa Rail Road company be, and they are hereby required to make a report on the 15th day of December, 1857, and every six months thereafter, to the Governor of the State of Alabama, which said report shall show the manner in which they have used the money received by them under the provisions of an act entitled "An act to appropriate the unappropriated part of the two per cent. fund, and a portion of the three per cent. fund," approved 4th of February, 1850, by the provisions of which they were authorized to receive, upon conditions, certain amounts of the two and three per cent. fund; said report shall exhibit the amount of said two and three per cent. fund now on hand, what amount is loaned out, and in what way and upon what security, and when the same is payable, and also what amount of said funds have been paid out and finally disposed of by them, and for what purposes.

Affidavit.

SEC. 2. *Be it further enacted*, That the said president of the said rail road company shall, before submitting the said report provided for in the preceding section of this act, make affidavit of the correctness thereof before some officer of this State, authorized by law to administer oaths.

President and directors.

SEC. 3. *Be it further enacted*, That if the said president and directors of said Tennessee and Coosa Rail Road company, and their successors in office, shall fail, or neglect, to comply with the provisions of this act, then so many of

them as assent to, or sanction, such failure, or neglect, shall be deemed guilty of a misdemeanor, and upon conviction thereof upon indictment, shall be punished by fine and imprisonment, one or both at the discretion of the jury ^{Jury.} trying the same; and shall, moreover, be personally liable, in their private property, to the State for the amount of said two and three per cent. funds which may be by them misapplied, or squandered.

SEC. 4. *Be it further enacted*, That upon the passage ^{Clerk.} and approval of this act, it shall be the duty of the clerk of the house of representatives forthwith to send a certified copy of it to the said president and directors of the said Tennessee and Coosa Rail Road company,

APPROVED, November 30, 1857.

[No. 296.]

AN ACT

To amend the estray law in Baldwin county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That from and after the passage of this act, it shall be lawful for any person owning lands in Baldwin county, or having charge of the same, and finding estrays on or about the same, it shall be lawful for such person, or persons, to ^{Estrays.} post such estrays, by advertising them forty days in each election precinct in said county, and the same proceedings shall be had in the appraised value of such estrays as are now prescribed by law.

SEC. 2. *Be it further enacted*, That if the owner shall fail to prove his property within the forty days, it shall be the duty of the taker-up to pay half of the appraised value into ^{Forty days.} the county treasury, and half shall be retained by the taker-up; any law to the contrary notwithstanding.

APPROVED, January 27, 1858.

[No. 297.]

AN ACT

To compensate returning officers for making election returns in Baldwin county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, returning officers of their respective beats shall be entitled to ten cents per mile for making returns of elections in Baldwin county, estimating the distance from the precincts where such elections are held, to the court house in said county, any law to the contrary notwithstanding.

APPROVED, February 2, 1858.

[No. 298.]

AN ACT

To authorize the election of an additional constable in beat No. 7, in the county of Barbour.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, it shall be lawful for the qualified voters of beat no. seven, in the county of Barbour, to elect an additional constable, under the same laws, rules, and regulations, that govern other elections for constable.

SEC. 2. *And be it further enacted,* That such constable so elected shall give bond in the same amount, and be subject to the same rules, regulations, and liabilities, and shall possess the same powers, as other constables in this State; any law to the contrary notwithstanding.

APPROVED, January 29, 1858.

Totent.

Eoud.

[No. 299.]

AN ACT

To allow compensation to viewers of public roads in Benton county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all persons summoned as viewers of new roads, or when old roads are to be changed, or as jurors to assess damages, shall be entitled to one dollar per day while engaged in such services, to be paid as jurors are paid in other cases, upon the certificate of the probate judge. Jurors.

SEC. 2. *Be it further enacted,* That if any person shall fail to attend, after being duly summoned, without a good and sufficient excuse, (to be determined by the commissioners' court,) shall forfeit twenty-five dollars to the State of Alabama, for the use of the county. Forfeit.

SEC. 3. *Be it further enacted,* That the provisions of this act shall apply to Benton county, only.

APPROVED, January 25, 1858.

[No. 300.]

AN ACT

To lay off Benton county into commissioners' districts, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be the duty of the judge of probate, and commissioners of roads and revenue, of Benton county, at any time before the first day of June next, to lay off said county into four commissioners' districts, as nearly equal as they may deem necessary, for the purposes herein specified. Judge of Probate

SEC. 2. *Be it further enacted,* That it shall be the duty of the sheriff of the county of Benton, aforesaid, to hold an election in each of the said districts, at the first regular election for commissioners of said county, after the passage of this act, for the election of one commissioner for each of said districts, and that the said commissioners thus elected, with the judge of probate, shall compose the court of commissioners for said county. Election.

SEC. 3. *Be it further enacted,* That in neither of the elections above specified, shall any person be entitled to vote out of

the district in which he resides, for commissioners aforesaid.

vacancies.

SEC. 4. *Be it further enacted*, That the said commissioners thus elected, shall hold their term of office as now prescribed by law; that they shall have power to fill all vacancies occasioned by death, resignation, or otherwise, in accordance with the provisions of this act, and shall receive the same compensation for their services as they are now allowed by law to receive.

SEC. 5. *And be it further enacted*, That the provisions of this act, as far as applicable, be extended to the counties of St. Clair and Blount.

APPROVED, December 3, 1857.

[No. 301.]

AN ACT

To change the time of taking up the State docket in Bibb county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That at the next term of the circuit court of Bibb county, and forever thereafter, the State docket of said court shall be taken up on Thursday of the week of said court.

SEC. 2. *Be it further enacted*, That all witnesses in criminal cases must be summoned to attend said court on Thursday of said week; any law to the contrary notwithstanding.

APPROVED, January 22, 1858.

[No. 302.]

AN ACT

To establish a company beat in Blount county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That a captain's company beat, be, and the same is hereby established in the county of Blount, with less than forty privates; the bounds of said company beat to be designated and defined as follows, to wit: commencing on the

Warrior river at the mouth of Duck creek, thence up the Warrior, to the Marshall county line, thence with said line, to the Morgan county line, thence with that line, to or opposite the main head of Duck, thence down the same, with its meanderings, to the beginning. Line.

SEC. 2. *Be it further enacted*, That the sheriff of said county shall cause an election to be held in said beat, on the first Monday in March next, or as soon thereafter as may be, for the purpose of electing two justices of the peace, and constable for said beat; said election to be held at the house of Enoch Alldridge, in said beat. Justice of peace

SEC. 3. *Be it further enacted*, That the term of said offices of such justices of the peace, and constable, as may be elected at said election, shall expire on the first Monday in March, 1858.

APPROVED, January 27, 1858.

[No. 303.]

AN ACT

To amend an act entitled an act to change the mode of assessing the tax in Butler county, approved February 7, 1856.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the words "receive the same per centage," where they occur in section four of an act entitled "an act to change the mode of assessing the tax of Butler county," approved February 7, 1856, be, and the same is hereby stricken out.

SEC 2. *Be it further enacted*, That the beat assessors for the county of Butler shall receive, as a compensation for their services, the same amount the county assessor would have received, to be divided among them, *pro rata*, according to the amount assessed by each.

APPROVED, February 1, 1858.

[No. 304.]

AN ACT

To change the mode of electing the county treasurer and county surveyors of the county of Butler.

Term of service. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the county treasurer, and the two county surveyors, of the county of Butler, shall, after the expiration of the term of service of the present incumbents, be elected by the qualified electors of said county, under the same rules, regulations, and qualifications, as the other county officers are elected.

Election. SEC. 2. *Be it further enacted,* That the election of each of said officers shall be held on the first Monday in August, after the term of office of the present incumbents shall expire, and every two years thereafter.

Treasurer and surveyors. SEC. 3. *Be it further enacted,* That the treasurer and surveyors so elected shall each hold his office for the term of three years.

Powers. SEC. 4. *Be it further enacted,* That the judge of probate, together with the court of county commissioners of roads and revenues for said county, shall exercise the same powers over the said treasurer, and surveyors, that are now prescribed by law, and the present incumbents shall continue to fill said offices until their successors are elected and qualified.

Reside. SEC. 5. *Be it further enacted,* That the treasurer so elected shall reside within one and a-half miles of the court house of said county.

APPROVED, January 30, 1858.

[No. 30

AN ACT

To provide for the location of the court house in the county of Bibb.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall be an election held at the different election precincts in Bibb county, on the first Monday in

May next, for the purpose of permanently locating the court house for said county.

SEC. 2. *Be it further enacted*, That it shall be the duty of the sheriff of Bibb county, on the first Monday in May next, having first given thirty days' notice, by advertisement in each beat in said county, to cause the polls to be opened, and an election held at the several precincts in said county. Said election shall be conducted, in all respects, as the general elections in this State. The managers shall be appointed as by law is provided for the appointment of other elections, and the managers and clerks of said election shall each take the oath, by law prescribed for managers and clerks of other elections, and be subject to like penalties for a violation of any of their duties. The returns of said election shall be made to the sheriff of said county within three days thereafter. Upon the coming in of said returns, it shall be the duty of the sheriff, and the managers who shall have conducted the election, at the present county site, to meet together at the court house, and compare, count, and add up, all the votes polled; and if it shall appear that either place voted for shall have received a majority of all the votes given in, they shall declare such place the permanent seat of justice for the county of Bibb.

Sheriff give notice.

Penalties.

SEC. 3. *Be it further enacted*, That no person shall be eligible to vote in said election who is not legally authorized to vote for members of the General Assembly, and any person voting illegally at said election, shall incur the same penalties as are by law now imposed upon persons voting illegally for members of the General Assembly; and said election may be contested for fraud, gross mismanagement, or illegal voting, in the same manner, as near as may be, as the election for judges of probate are now conducted; and fraud committed at said election shall be punished as similar frauds at other elections are now punished.

Votes.

Judge of Probate

SEC. 4. *Be it further enacted*, That the towns of Centreville and Randolph shall alone be in nomination, and the town receiving a majority of all the votes cast shall be the permanent seat of justice for said county. Each voter shall have written or printed on his ticket, Centreville, or Randolph.

Centreville and Randolph.

SEC. 5. *Be it further enacted*, That any officer who shall fail, or refuse to perform any duty by this act enjoined, either in opening, holding, or managing, or returning said election, or who shall fail, or refuse to appoint all proper managers, or to do any other act or thing, whereby the object of this act shall be defeated, such officer shall be subject to a fine

Officers.

Forfeit.

not less than fifty dollars, nor exceeding two hundred dollars, to be recovered before the circuit court of Bibb county, for the use of said county, by any person making the motion, and after three days' previous notice to said officer of said motion.

Donation.

SEC. 6. *Be it further enacted*, That if, at said election, it shall appear that Randolph has received a majority of all the votes given, then, and in that event, it shall be the duty of the judge of probate, and commissioner of roads and revenue, and they are hereby authorized and required, to purchase, or receive by donation, a fee simple title to land in said town of Randolph, sufficient to erect county buildings thereon; and it shall further be the duty of the judge and commissioner, to cause a suitable court house and jail to be erected upon said lands, and as soon as said new court house is completed, Randolph shall be the permanent seat of justice of said county, and all books, papers, and public records belonging to the offices of the clerk of the circuit court, judge of probate, sheriff, and register in chancery of said county, shall be transferred from Centreville to Randolph.

APPROVED, December 5, 1857.

[No. 306.]

AN ACT

To change the name of Benton county to Calhoun.

Name changed.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the name of Benton county, after the passage of this act, shall be changed to Calhoun, and that all public properties, rights and credits, pertaining to said county of Benton, shall pertain as fully to said county of Calhoun as though the name of said county were not changed, and all writs, process, or proceedings of any kind, or contracts in which the name of Benton occurs in relation to said county, shall be taken and held as though the name of Calhoun had been originally used therein.

APPROVED, January 29, 1858.

[No. 307.]

AN ACT

To repeal an act to amend the road laws in Cherokee county, approved 2d February, 1856.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That a special act passed to amend the road laws of Cherokee county, and approved the 2d day of February, 1856, be, and the same is hereby repealed, as to the county of Cherokee.

APPROVED, December 2, 1857.

[No. 308.]

AN ACT

To change the line between Cherokee and DeKalb counties.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the county line between the counties of Cherokee and DeKalb be, County line. and the same is hereby so altered and changed as hereinafter described.

SEC. 2. *Be it further enacted,* That whereas, the road known as the old Georgia road, leading from R. B. Whorton's to Rhea's bridge, on Big Wills creek, is now the line between said counties, shall, in consideration of the petition of certain citizens along said road, be so changed, as that the road known as the Gunter's landing road, leading from said Whorton's to Big Wills creek, near Jas. Hampton's, Big Wills creek shall hereafter be the established line between said counties; and that the citizens so transferred to Cherokee county, shall be entitled to all the rights, privileges and immunities as other citizens of said county.

APPROVED, February 6, 1858.

[No. 309.]

AN ACT

To authorize the Governor to issue a patent to Thomas L. Penn, of the county of Chambers.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Governor be, and he is hereby authorized to issue a patent to Thomas L. Penn, of the county of Chambers, to the south east quarter, and the south half of south west quarter of section 28, township 21, of range 28, the same having been sold in lieu of section 16 of said township and range; *Provided,* That the Governor can be made fully satisfied that the entire purchase money has been paid as the law requires in such cases made and provided.

APPROVED, February 2, 1858.

[No. 310.]

AN ACT

To compensate tax assessors for assessing the county taxes for the counties of Choctaw, Coosa, Lowndes and Autauga.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter the court of county commissioners for the counties of Choctaw, Coosa, Lowndes and Autauga shall be authorized to make to their tax assessors such compensation for assessing the county tax as they may deem just and proper.

APPROVED, February 4, 1858.

[No. 311.]

AN ACT

To increase the pay of regular and tales jurors in the counties of Choctaw and Clarke.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, jurors for the county of Choctaw, shall receive two dollars for each day they shall serve, and five cents for each mile they shall travel in coming to and returning from court, together with any ferriage actually paid, out of any money in the treasury of the county. Per diem.

SEC. 2. *And be it further enacted,* That all tales jurors in the county of Choctaw, shall be entitled to the same per diem compensations as the regular jurors, and to be paid in the same manner. Regular jurors.

SEC. 3. *And be it further enacted,* That the provisions of this act shall be extended to the county of Clarke.

APPROVED, January 22, 1858.

[No. 312.]

AN ACT

To cause the county treasurer of Clarke county to be elected by the qualified voters thereof.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the county treasurer of Clarke county, shall be elected by the qualified voters of said county, on the first Monday in August, 1858, and enter upon the duties of said office immediately after having filed his bond, with the proper securities, within the lapse of ten days after the election. Voters.

SEC. 2. *Be it further enacted,* That said county treasurer shall be elected for the term of three years, counting from the first Monday in August, 1858. Three years.

SEC. 3. *Be it further enacted,* That if a vacancy shall occur in this office after the election in 1858, mentioned in section 1st, it shall be the duty of the judge of probate of said county, to convene the court of county commissioners at the earliest day practicable, which court shall, without

delay, fill said vacancy, and the person so elected shall hold said office for the unexpired term of said appointment.

Commissioners'
court.

SEC. 4. *Be it further enacted*, That the present incumbent, or the holder of the office who may by law be selected by the court of county commissioners, shall be required, and it shall be his duty as treasurer of said county, to transfer all the money, books and papers appertaining to said office, within the first ten days after the first Monday in August, 1858.

APPROVED, February 2, 1858.

No. 313.

AN ACT

To authorize the voters of Coffee county to elect a tax collector.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That there shall be elected by the qualified voters of Coffee county, a tax collector, on the first Monday in August, 1858, who shall hold his office for one year, beginning on the first of September next after his election.

APPROVED, January 13, 1858.

[No. 314.]

AN ACT

To authorize the executrix of the will of Abram Burk, to move the administration and property of said estate from the county of Coffee to the county of Barbour.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Jans J. Burk, the executrix of the last will and testament of Abram Burk, be authorized to remove the administration and property of said estate from the county of Coffee to the county of Barbour, and that the judge of probate of Coffee county, be authorized and required to send a transcript, properly certified, of the proceedings

heretofore had in said court, in relation to said estate; *Provided*, The said Jaue J. Burk shall first give bond to the judge of probate of Barbour county, as at present required of executors and administrators.

APPROVED, February 8, 1858.

[No. 315]

AN ACT

Authorizing the qualified voters of Conecuh county to elect a tax assessor for the term of two years.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That there shall be elected by the qualified voters of the county of Conecuh, on the first Monday in August, 1859, and every two years thereafter, a tax assessor for said county of Conecuh, who shall hold his office for the term of two years, beginning on the first day of September next after his election.

APPROVED, February 6, 1858.

[No. 316.]

AN ACT

In relation to the establishment of a school for township 14, range 10, Dallas county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the trustees of township 14, range 10, Dallas county, be, and they are hereby authorized to locate the school for said township at any convenient point they may think proper, although the same may not be in said township; any law to the contrary notwithstanding.

APPROVED, February 8, 1858.

[No. 317.]

AN ACT

To create an additional company beat, and election precinct
in the county of Fayette.

Boundaries.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an additional captain's company beat be established in the county of Fayette, with the following boundaries: commencing at the mouth of Hell's creek, thence up said creek to the mouth of Yearby's mill creek, thence up said mill creek to the Marion county line, running said line to the head of the creek west of C. K. Armstrong's, thence down said creek to Yellow creek, thence down said creek to the mouth of Hell's creek, to be known as Lawrence's beat, and be attached to the battalion and regiment which now have jurisdiction over said territory.

Sheriff.

SEC. 2. *Be it further enacted,* That on the first Monday in March next, it shall be the duty of the sheriff to cause an election to be held at the house of E. W. Lawrence in said beat, for the justices of the peace, a constable, a captain and the requisite subaltern officers, who shall hold their offices for the term prescribed by law, and a precinct for general elections is hereby established at the house of the said Lawrence.

Repealed.

SEC. 3. *Be it further enacted,* That all laws and parts of laws laws contravening the provisions of this act be, and the same are hereby repealed.

APPROVED, January 24, 1858.

[No. 318.]

AN ACT

Requiring certain road duties of W. W. Pool, of Fayette county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it is hereby made the duty of W. W. Pool, of the county of Fayette, to work and keep in good repair the road leading from Fayetteville, Alabama, to Columbus, Mississippi, running south of Luxpelila river, from the Alabama and Mississippi State line to Mrs. Mary Fort's gate, and that he is exempt from all other road duties.

SEC. 2. *Be it further enacted,* That the said W. W. Pool be subject to the penalties of overseers of roads for default.

APPROVED, February 6, 1858.

[No. 319.]

AN ACT

To provide for the pay of jurors in the county of Fayette.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the commissioners' court for the county of Fayette, be and they are hereby fully empowered to regulate the pay of jurors.

SEC. 2. *And be it further enacted,* That said court be required to set apart a sufficient fund, of the revenue of said county, to be known as the jury fund, and used only as such.

SEC. 3. *Be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be and the same are hereby repealed.

APPROVED, February 8, 1858.

[No. 320.]

AN ACT

To change the term of office of apportioners in the counties of Greene and Marengo.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of section three of an act approved January 10, 1845, making apportioners in the counties of Greene and Marengo hold their office for the term of four years, be repealed, and the provisions of section 1143 of the Code be made applicable to said counties.

APPROVED, February 5, 1858.

[No. 321.]

AN ACT

To elect the county surveyor and the county treasurer, of Hancock county, by the people.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That on the first Monday in August, 1858, and every two years thereafter, the county surveyor and the county treasurer of Hancock county shall be elected by the qualified voters of said county.

SEC. 2. *Be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, are hereby repealed.

APPROVED, December 2, 1857.

[No. 322.]

AN ACT

To change the name of the county of Hancock.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the name of the county of Hancock be changed, and that said county shall hereafter be known by the name and style of the county of Winston.

SEC. 2. *Be it further enacted,* That all the rights, privileges, and obligations of the present county of Hancock, shall ennure to the said county of Winston, and by that name shall hereafter sue and be sued, and that all laws appertaining to the present county of Hancock shall have full force and effect in the said county of Winston.

APPROVED, January 22, 1858.

[No. 323.]

AN ACT

To repeal an act entitled an act amending the road law in Henry county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act making it the duty of justices of the peace to apportion road hands and appoint overseers of roads of Henry county, approved the 17th day of February, 1854, be and the same is hereby repealed.

SEC. 2. *Be it further enacted,* That the judge of probate and sheriff of Henry county, shall each be entitled to the compensation allowed them by section 1186 of the Code, for their *ex officio* services in road cases.

APPROVED, December 2, 1857.

[No. 324.]

AN ACT

To legalize the sale of section sixteen, township three, range six, east, in Jackson county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sale of section sixteen, township three, range six, east, in Jackson county, heretofore made by the trustees of said township to _____ Townsend, on the first day of January, 1858, be and the same is hereby legalized and confirmed as fully as though the said section had been sold in lots, according to the requirements of the Code of Alabama.

APPROVED, January 22, 1858.

[No. 325.]

AN ACT

To create an additional company beat in Jackson county, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an additional captain's company beat of the following boundaries, viz: commencing at the Madison and Jackson county line, on Point Rock river, thence up said river to Pruett's ferry, thence due east to the top of the mountain, thence following the brink of the mountain to the narrows, above Col. Elcanah Hussey's residence, thence north-west to the top of the mountain direct above J. W. Scrugg's plantation, thence follow the top of the mountain to the Madison county line, thence with said line to the beginning point, be established in the county of Jackson, to be known as the Point Rock Station Beat. and be attached to the fifty-second regiment of Alabama militia, whether there be within said bounds the requisite number of privates or not.

SEC. 2. *And be it further enacted,* That as soon as practicable, there shall be an election held at the Point Rock Station, in said beat, for two justices of the peace, a constable, a captain and the requisite subaltern officers, who shall hold their offices for the term prescribed by law; and

a precinct for general elections is established at Point Rock Station, until otherwise directed by the court of county commissioners.

APPROVED, January 19, 1858.

[No. 326.]

AN ACT

To regulate the pay of jurors and witnesses in the county Jackson.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all special laws and parts of laws providing for the pay of petit and tales jurors and witnesses in the circuit and probate courts of Jackson county, be and the same are hereby repealed; and that from and after the passage of this act, such jurors and witnesses in said county shall be entitled to receive the same compensation as is provided by the Code for witnesses and jurors in like cases.

APPROVED, February 6, 1858.

[No. 327.]

AN ACT

To establish the boundary line between the counties of Jefferson and St. Clair.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Allen Fuller, William B. Martin, and Thomas K. Truss, of the county of Jefferson, and Elias Underwood, and H. H. Strange, of the county of St. Clair, be and they are hereby appointed commissioners to run out the line between the counties of Jefferson and St. Clair, from the Cahawba river to the Blount county line.

SEC. 2. *And be it further enacted,* That the said commissioners shall be allowed the sum of two dollars per day for

each day's services rendered, to be paid by their respective counties.

SEC. 3. *And be it further enacted,* That if any of the commissioners named in the first section of this act shall refuse, or from any cause fail to perform the service for which they were appointed, then it shall be the duty of the judge of probate, of the counties of Jefferson and St. Clair respectively, to appoint a suitable person, or persons, to supply such vacancy in the commission.

APPROVED, February 5, 1858.

[No. 328.]

AN ACT

To provide for the payment of jurors in Jefferson county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall be the duty of the commissioners' court for the county of Jefferson, at the first term of said court after the passage of this act, to require the treasurer of said county, to set apart from the first money that comes into his hands, an amount sufficient to pay the jurors that may hereafter be summoned in said county from time to time; which fund, so set apart, shall be held exclusively for that purpose, so that the said jurors may be paid off during the term of the court to which they are summoned: *Provided,* That this act shall not take effect until all claims against the county, duly registered, at the date of its passage have been discharged, and not until the said treasurer has provided cash assets sufficient to pay off such certificates.

APPROVED, January 27, 1858.

[No. 329.]

AN ACT

To authorize the sale of the bonds of the county of Limestone.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the bonds of the county of Limestone, issued ^{Bonds.} by the court of county commissioners of said county, in aid of the Tennessee and Alabama Central Rail Road company, under an act of the legislature of the State of Alabama, passed December 14, 1855, entitled an act to authorize the court of county commissioners of Limestone county, State of Alabama, to subscribe to the capital stock of the Tennessee and Alabama Central Rail Road company, be ^{Court of county commissioners.} and the same are hereby made transferrable either by endorsement or delivery.

SEC. 2. *Be it further enacted,* That the said company be, and it is hereby authorized to sell and dispose of said ^{Sell bonds.} bonds at their market value, or upon such terms, and at such discount, as to said company may seem proper.

SEC. 3. *Be it further enacted,* That the said company be, and it is hereby authorized to bind itself for the redemption of said bonds, either by endorsement on the same, or in any other way that it may deem advisable, or to mortgage any, or all of its property, including its track, and franchises for the redemption of the same; and any such ^{Redeem bonds.} contract, or contracts, shall enure to the benefit of the transferer, or transferers, holder or holders, of any bond or bonds, embraced in such contract or mortgage.

SEC. 4. *Be it further enacted,* That all laws and parts of laws, contravening the provisions of this act, be and the ^{Repealed.} same are hereby repealed.

APPROVED, February 8, 1858.

[No. 330.]

AN ACT

To regulate the appointment and duties of patrols for Lowndes county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That sections 984, 985, 986, 987, 988, and 989, of the Code of Alabama, in their application to the county of Lowndes, be and the same are hereby repealed, except as hereafter mentioned.

Justice peace.

SEC. 2 *Be it further enacted,* That any justice of the peace, of the county of Lowndes, when he deems it necessary, and must, when called upon in writing to do so, by any credible or discreet person in his precinct, call out a detachment of not less than four nor more than six persons in his precinct, subject to patrol duty, one of which number shall be designated as leader of the patrol, who shall perform all the duties now imposed by law upon the leaders of patrols.

Patrol call out.

SEC. 3. *Be it further enacted,* That when the patrol is called out as provided for in the preceding section of this act, it shall be the duty of said justice to issue a notice to the leader of said detachment which shall be served by the constable as now provided in section 986 of the Code.

Serve.

SEC. 4. *Be it further enacted,* That the persons so called out shall be required to serve not less than two, nor more than three weeks at any time, and shall have all the power, perform all the duties, and be subject to all the penalties, now provided by law for patrols.

APPROVED, February 6, 1858.

[No. 331.]

AN ACT

To locate permanently the seat of justice in Marion county.

Election.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sheriff of Marion county shall open and hold an election at the several election precincts in said county, on the first Monday in August next, for the purpose of enabling the people of said county to locate per-

manently the seat of justice thereof; which election shall be held and conducted agreeable to the same regulations as are now provided by law for conducting elections for members of the General Assembly of this State, and it shall be the duty of said sheriff to give at least twenty days' notice of the time of holding said election, by advertisement posted up at the court house door, and at least five other public places in said county, in which notice he shall put in nomination Pikeville, and the centre of said county, or some place as near thereto as practicable, which latter place shall have been determined by a county convention, held in Pikeville on the first Monday in May, 1858, composed of one delegate elected by the qualified voters of each beat of said county respectively: *Provided*, That a majority of the delegates thus elected shall have the power of determining said place.

Notice.

Proviso.

SEC. 2. *And be it further enacted*, That at the election held for the purpose of locating said seat of justice aforesaid, it shall be lawful for all the legal voters of said county to vote for either of the two places nominated as aforesaid, by writing upon their tickets the name of the place of their choice, and it shall be the duty of said sheriff, after the votes of the several precincts, returned agreeable to law, are compared, and the result ascertained by the judges and clerks of said election at the court house in Pikeville, to make public proclamation thereof, and if either place shall receive a majority of the votes at said election, it shall be deemed and regarded the permanent seat of justice of said county.

Legal voters.

SEC. 3. *And be it further enacted*, That should a majority of the votes given at said election, be cast in favor of the place designated by the county convention aforesaid, held on the first Monday in May aforesaid, it shall be the duty of the sheriff holding said election to make a report thereof to the next court of county commissioners of said county, to be held thereafter, and it shall be the duty of said court, upon such report being made, to advertise for such time and in such manner as they may think proper, for proposals for the building of a court house and jail, at the place which shall have been elected, and declared the permanent seat of justice of said county.

Commissioners' court.

SEC. 4. *And be it further enacted*, That whenever said court shall enter into a contract, or contracts, for the erection of the court house and jail, it shall require in all cases, the contractor, or contractors, to enter into bond, with good and sufficient sureties, in such amount as it may require,

Court house and jail.

Tax

payable to such officer of said county and his successors in office, as it may direct, for the faithful performance of said contract, within the time which may be prescribed by said court, for the completion of the same; and it may be, and is hereby made lawful for said commissioners' court to lay a tax upon all legal subjects of taxation in said county, sufficient to meet the necessary expenses attendant upon the erection and completion of said court house and jail, which tax, when levied, shall be divided into three equal annual installments, one-third to be collected in the year 1858, one-third in the year 1859, and one-third in the year 1860, which shall be assessed and collected in the same mode now prescribed by law for collecting the State and county taxes of this State; and said court shall adopt such regulations in regard to the safe keeping and disbursement of the same as it may think proper.

Court house and jail.

SEC. 5. *And be it further enacted*, That it shall be the duty of the commissioners' court of said county, to appoint five discreet and disinterested persons of said county as commissioners, to superintend the erection of the court house and jail, and to examine and receive the same when completed, and to make such reports as they may deem advisable, or said court may require, for which services said court is authorized to make a reasonable allowance, to be paid out of the fund received by the aforesaid tax.

County convention.

SEC. 6. *And be it further enacted*, That should the place selected, under the provisions of this act, by the county convention aforesaid, receive the majority of the votes cast and be selected as the permanent seat of justice of said county of Marion, John C. Price, William M. C. Allman, John Thompson, Levi Northington, and Jackson Miller, are hereby appointed commissioners to locate and lay off at such place, a public square, streets, and town lots, and prepare a map of the same, which, when completed, shall be returned to the commissioners' court of said county, and it shall be the duty of said commissioners' court to purchase the lands embracing said square, streets, and town lots, and pay for the same out of the taxes raised as above specified.

Officers of county

SEC. 7. *And be it further enacted*, That should said location be made as provided in the foregoing section of this act, it shall be the duty of the clerk of the circuit court, judge of probate, and sheriff of said county, to remove, within twelve months after said election, all books, papers, and records, belonging to their respective courts, to such new county site; and all writs, and other process up to that time made returnable to the courts of Pikeville, shall be

deemed and are hereby made returnable to said county site, and all courts of said county shall thereafter be held at said new county seat.

SEC. 8. *And be it further enacted*, That any sheriff, or other officer, who shall wilfully refuse to perform the duties required of him in this act, shall be subject to a fine of five hundred dollars, and may be imprisoned in the county jail not more than twenty days.

SEC. 9. *Be it further enacted*, That the election of delegates to the county convention, mentioned in the first section of this act, shall be held, conducted, returned and governed in all respects as the elections of justices of the peace are now required by law.

SEC. 10. *And be it further enacted*, That all laws and parts of laws, in conflict with the provisions of this act, be and the same are hereby repealed.

APPROVED, February 2, 1858.

[No. 332.]

AN ACT

Supplemental to an act to locate permanently the seat of justice of Marion county, approved February 2, 1858.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the county convention, specified in the first section of an act entitled an act to locate permanently the seat of justice in Marion county, approved February 2, 1858, be held on the first Monday in April next, and the sheriff of said county shall give at least ten days' notice, under the same rules and regulations as is now required by law for the election of justices of the peace and constables in this State.

APPROVED, February 6, 1858.

[No. 333.]

AN ACT

To regulate the registration of claims against the counties of Marshall and DeKalb.

Claims.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all out-standing claims against the counties of Marshall and DeKalb, except such only as belong to persons residing out of the limits of said counties, shall be registered in the county treasurer's office within twelve months after the passage of this act, or shall be forever barred.

Present to county treasurer.

SEC. 2. *Be it further enacted,* That all county claims, hereafter issued against said counties of Marshall and DeKalb, shall be presented to said county treasurer for registration within twelve months after they have been allowed, or shall be forever barred.

SEC. 3. *And be it further enacted,* That all laws and parts of laws, that conflict with the provisions of this act, be and the same are hereby repealed.

APPROVED, January 25, 1858.

[No. 334.]

AN ACT

To create an additional company beat and election precinct in Marshall county.

Boundaries.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an additional captain's company beat be established in the county of Marshall with the following boundaries: commencing at the Tennessee river, opposite Matthew Culbreth, running from thence to Matthew Culbreth's house, thence with the old Law's landing road to Doctor David Smith's, thence south-east to Town creek, thence up Town creek to the DeKalb county line, thence along the DeKalb line, eastwardly, to the Jackson and Marshall line, thence with Marshall and Jackson line to the Tennessee river, thence down said river to the beginning, to be known as the Kirby beat, and be attached to the battal-

ion and regiment who now have jurisdiction over said territory.

SEC. 2. *Be it further enacted*, That on the first Monday in March next, it shall be the duty of the sheriff, after giving ten days' notice at three public places in said territory, described in the first section of this act, to cause an election to be held at the house of Frank M. Kirby, in said beat, for two justices of the peace, a constable, a captain, and the requisite subaltern officers, who shall hold their offices until the first Monday in March, 1859, after which the said officers shall be elected for the term prescribed by law, and at the time prescribed by law; and a precinct for general elections is hereby established at the house of the said Frank M. Kirby.

Duty of Sheriff.

Elections.

SEC. 3. *Be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be and the same are hereby repealed.

Repealed.

APPROVED, January 27, 1858.

[No. 335.]

AN ACT

To change and establish the boundary lines between the counties of Marshall, DeKalb and Jackson.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the boundary lines between the counties of Marshall, DeKalb and Jackson, is hereby changed and altered so as to commence at the mouth of Black Oak creek, thence in a direct line to the north west corner of section thirty-one in township six, of range six, east, thence to Main Sauta creek, thence up said creek to Bynum's mill, thence to the county line between the counties of Jackson and DeKalb as heretofore established by law, making James Bynum a citizen of DeKalb county.

Line changed.

SEC. 2. *Be it further enacted*, That all laws and parts of laws contravening this act be, and the same are hereby repealed.

APPROVED, February 2, 1858.

[No. 336.]

AN ACT

To create an additional company beat and election precinct in the county of Marshall.

Additional beat.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an additional captain's company beat be established in the county of Marshall with the following boundaries: commencing at John Prigmore's and running down Hog creek to the fork near Martin's, thence south-west to James Nixon's, thence down Slab creek to the county line of Blount county, thence with said line to Watts' mill, thence with the road up Clear creek to the rail road, thence with said road to Agrippa Scott's, thence with the Somerville road to John Prigmore's, to be known as the Davidson beat, and be attached to the battalion and regiment which now has jurisdiction over said territory.

Duty of sheriff.

SEC. 2. *Be it further enacted,* That on the first Monday in March next, it shall be the duty of the sheriff to cause an election to be held at the house of William Davidson in said beat for two justices of the peace, a constable, a captain, and the requisite subaltern officers, who shall hold their offices for the term prescribed by law; and a precinct for general elections is hereby established at the house of the said Davidson; it shall be the duty of the sheriff to give ten days' notice of said election.

SEC. 3. *Be it further enacted,* That all laws and parts of laws, contrary to the provisions of this act, be and the same are hereby repealed.

APPROVED, February 4, 1858.

[No. 337.]

AN ACT

To regulate the drawing of the grand jurors of Marion county.

Judge of probate

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter it shall be lawful for the judge of probate, clerk of the circuit court and sheriff of Marion county, or a majority of them, to select not less than five

nor more than ten persons from each precinct, competent to serve on the grand jury, and from each number draw one name who must serve as grand jurors, and when there is not as many precincts, as there are jurors required by law, then the number must be made up from the precincts having the largest number of inhabitants: *Provided*, That no person shall be compelled to serve more than one term in any one year. Proviso.

SEC. 2. *Be it further enacted*, That if from any cause the number of grand jurors drawn and summoned, should not attend, or when in attendance, should be excused, then the judge must fill out the number as now required by law, any law to the contrary notwithstanding. Fill out number.

APPROVED, February 8, 1858.

[No. 338.]

AN ACT

Prescribing the mode of bringing suits for school districts in Mobile county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the persons composing the local school committee in and of the school districts of Mobile county, under the regulations of the board of Mobile school commissioners of said county, may either in their own names as such committee, or in the name of the treasurer appointed by them for any such district, sue for and recover any monies that may be due for the tuition of pupils in the schools of such district, or any other monies due to such school district, or damages to any of the school property thereof.

APPROVED, February 1, 1858.

[No. 339.]

AN ACT

Declaring Big creek, in Mobile county, a navigable stream.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Big creek, in the county of Mobile be, and the same is hereby declared a navigable stream and public highway, from Moffitt's road to the Mississippi line.

SEC. 2. *And be it further enacted,* That if any person shall in any manner, obstruct or interfere with the free navigation of that part of the stream called Big creek, above named, he shall be deemed guilty of a misdemeanor, and shall be punished accordingly.

APPROVED, February 8, 1858.

[No. 340.]

AN ACT

To amend the law as to the president and directors of the board of steamboat engineers of Mobile.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the president of the several insurance companies, chartered by this State and located in the city of Mobile, and all owners of steamboats whose names are duly registered in the office of the probate court of Mobile as such owners, shall hereafter be entitled to vote in the election of the president and directors of the board of steamboat engineers of Mobile, in addition to the persons now authorized by law to vote in such elections.

APPROVED, February 6, 1858.

[No. 341.]

AN ACT

To amend the road laws in Mobile.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall be elected on the first Monday of February, 1858, and every three years thereafter, by the qualified electors of each ward in the city, and each beat in the county of Mobile, a road commissioner, to serve for three years, and until his successor shall be elected and qualified.

Road commissioner.

SEC. 2. *Be it further enacted,* That the persons so elected, shall be known by the name of the "Board of Commissioners of Roads, of Mobile county," who shall meet at the court house of said county, at least once in two months for the transaction of business; they shall choose a chairman from their own body; may fill the vacancies that may occur therein, and shall have full power, authority and control, over roads, bridges and ferries in said county, and shall appoint the inspector of elections therein; may grant licence for ferries and toll houses and bridges, establish the rates of ferriages and tolls; may lay off and establish new roads, and discontinue old ones, and generally do all such things in regard to roads, bridges and ferries, as the boards of commissioners of roads and revenue do in other counties.

Board of commissioners of roads.

SEC. 3. *Be it further enacted,* That said board of road commissioners may each year levy a tax upon the tax payers of said county, which shall not exceed in the aggregate the sum of four thousand dollars annually, which tax shall be collected as other taxes are, the one half part of which shall be applied each years towards the making of bridges and repairing the roads within six miles from the outer line of the city of Mobile, and the other half to the making and repairing of bridges and cauways in said county generally.

Levy tax.

SEC. 4. *Be it further enacted,* That said board of road commissioners, shall annually appoint such apportioners of hands for the several roads, as also such overseers of roads as may be necessary and proper, who shall be ameanable to the laws of the State generally, for the non-performance of duty, after they shall have been notified of their appointments. All persons legally liable to work on roads, who shall neglect, or refuse to do so, at the times and places appointed, after being duly warned, shall be subject to be complained against by their respective overseers, before any justice of the peace of said county, and may be, by him

Apportioners of hands.

summoned and fined in the sum of one dollar, for each day he, and each of his slaves liable to work on the roads, shall have failed to work, and shall pay the costs of such proceeding, for all which execution may issue, and the money when collected, shall be paid to the said overseer or his successor, to be applied towards the improvement of his road. Each overseer to make return annually under oath, to said board of commissioners, of the amount of money he shall have received, and from what sources, and how he has expended the same.

Make return.

SEC. 5. *Be it further enacted*, That all free male persons who reside out side of the limits of the city of Mobile in said county, between the ages of twenty-one and forty-five years, as also all male slaves between the ages of eighteen and fifty years, shall be liable to perform work on the roads, not exceeding six days each, in each year.

Work on road.

SEC. 6. *Be it further enacted*, That the present board of road commissioners of said county, shall cause at least ten days' notice of the election of their successors under this act, to be given by publication, showing the time and place at which the said elections are to be holden, and so in like manner, shall each succeeding board, and shall appoint two persons for each ward, and company beat, to hold the elections and make return of the votes to the board, and if said inspectors shall not attend and act, any two householders may serve as such, and the persons who act as inspectors may appoint one clerk for each poll, who shall be paid three dollars per diem, out of the funds of said board for his services. Said board shall judge finally of the qualifications of those elected. Six of the board shall constitute a quorum for the transaction of business; the judge of the court of probate shall act as clerk of the board, and keep the minutes of the proceedings, and issue notices to apportioners and overseers, &c., for which he shall receive such compensation as has been heretofore allowed for like services.

Ten days' notice.

Quorum.

SEC. 7. *Be it further enacted*, That the members of said board of road commissioners, shall be exempt from the payment of road taxes, and the performance of road duty, personally, as also from the payment of tolls and ferriages in said county, and likewise from the performance of jury duty. And if any member of said board shall neglect to attend the meeting of said board, for two successive times, (unless he has a good excuse, to be judged of by the board,) he shall be displaced by the board; and shall not have the right to claim any of the exemptions provided by this section.

Exempt.

SEC. 8. *Be it further enacted,* That all laws now in force, in regard to the establishment and proceedings of a separate road court of Mobile county, and such provisions of law as give to the commissioners of roads and revenue of said county, any jurisdiction or control, over roads, bridges, and ferries, or the appointment of inspectors of elections be, and the same are hereby repealed.

APPROVED, January 12, 1858.

[No. 342.]

AN ACT

To protect the citizens of Mobile and Baldwin counties in the enjoyment of their oyster beds.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the citizens of Mobile and Baldwin counties, who have residences bordering on the bay or gulf, may plant, contiguous to their respective residences, and in the bay, gulf, bayous and inlets within one quarter of a mile from the shore, beds of oysters, to be preserved and fed for their own private family use and consumption, and which they may protect against depredators.

SEC. 2. *Be it further enacted,* That if any person shall fish up, take off, and carry away any of the oysters so bedded, knowing the same to belong to another such person or persons, shall be deemed guilty of larceney, and shall be punished for each commission thereof, as in other cases of like offence: *Provided,* That such person or persons as have such beds, or as may hereafter plant the same, shall surround them with conspicuous stakes or polls, to indicate their appropriation of the grounds where they shall so plant and feed their oysters. Provide.

SEC. 3. *Be it further enacted,* That it shall not hereafter be lawful for any person or persons to take up from their natural beds any oysters about the shores of the bay or gulf or in the same, for the purpose of planting and bedding the same, between the first of May and the first of September in each year, and if any person shall violate the provisions of this section, he shall forfeit for each offence, the sum of one hundred dollars, recoverable by indictment for the use of the State. Time.

APPROVED, February 2, 1858.

[No. 343.]

AN ACT

To allow legal sales in the county of Montgomery to be made in the public square of the city of Montgomery.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened,* That in all cases, when public sales are required by law to be made at the court house of the county of Montgomery, the same shall hereafter be made in the public square of the city of Montgomery, where the old court house stood, and the advertisements of sales be made accordingly.

APPROVED, February 8, 1858.

[No. 344.]

AN ACT

To prevent the retail of spirituous liquors within two miles of the Baptist Church, near Pine Level, in the county of Montgomery.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That it shall not be lawful to retail spirituous liquors within two miles of the Baptist Church near Pine Level, in the county of Montgomery; and that it shall not be lawful for a license to be granted to any person to retail spirituous liquors within two miles of said church: *Provided,* That the provisions of this act shall not apply to any person who has a license to retail spirituous liquors within said limits, until after the expiration of the time for which such person has a license.

SEC. 2. *And be it further enacted,* That all laws in conflict with the provisions of this act, be and the same are hereby repealed.

APPROVED, January 25, 1858.

[No. 345.]

AN ACT

To regulate the length of rails or polls for causeways on roads in Montgomery county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, all polls and rails in causeways on public roads in Montgomery county, shall not be required to be more than ten feet in length.

SEC. 2. *And be it further enacted,* That all laws contravening the provisions of this act be and the same are hereby repealed.

APPROVED, February 2, 1858.

[No. 346.]

AN ACT

To declare George W. Salter a citizen of Monroe county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That George W. Salter, who resides on the line between Conecuh and Monroe counties be, and he is hereby declared to be a citizen of Monroe county, and liable to perform all the duties, and is entitled to all the privileges of a citizen of Monroe county; any law, usage or custom to the contrary notwithstanding.

APPROVED, February 5, 1858.

[No. 347.]

AN ACT

To repeal an act to amend the patrol law in Pickens county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act entitled an act to amend the patrol law in Pickens county, approved December 12, 1853, be and the same is hereby repealed.

APPROVED, February 2, 1858.

[No. 348.]

AN ACT

To provide for the pay of jurors in Pickens county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the grand and petit jurors of the regular pannel and talesmen sworn for the term or week in Pickens county, shall be entitled to receive two dollars each, per diem, and five cents per mile, for each mile traveled necessarily in going to and returning from court, besides ferriages.

Jurors.

SEC. 2. *Be it further enacted,* That tales jurors sworn and empannelled, and serving as such, shall receive one dollar per diem.

SEC. 3. *Be it further enacted,* That jurors in the court of probate, shall receive one dollar per diem, to be taxed in the costs, and paid by the unsuccessful party in the issue tried by them.

SEC. 4. *Be it farther enacted,* That the county treasurer of Pickens county shall set apart a fund in the county treasury to be known as the "jury fund," and shall pay the certificates of jurors as they are presented, and failing to do so, the said treasurer and his securities on his bond, as such, may be sued on such certificates, and judgment must be rendered in favor of the holder: *Provided,* That this section of this act, shall not take effect, until all claims against the county, duly registered at the date of its passage, have been discharged, and until the said treasurer has received cash assets sufficient to pay off said certificates.

Jury fund.

Provide.

SEC. 5. *Be it further enacted*, That all laws conflicting with the provisions of this act, are hereby repealed.

SEC. 6. *Be it further enacted*, That the provisions of the foregoing act, be extended to the county of Russell, excepting that said grand and petit jurors shall be entitled to receive two dollars each per diem, instead of two dollars and fifty cents as provided in the first section of said act.

APPROVED, January 26, 1858.

[No. 349.]

AN ACT

To authorize the people of Pike county to elect the county surveyor of said county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the county surveyor of the county of Pike, shall be elected by the qualified voters of said county on the first Monday in August, 1858, and enter immediately thereafter upon the duties of his office.

SEC. 2. *Be it further enacted*, That said county surveyor shall hold his office for the term of three years.

SEC. 3. *Be it further enacted*, That all laws and parts of laws conflicting with this act be, and the same are hereby repealed.

APPROVED, January 20, 1858.

[No. 350.]

AN ACT

To change the manner of appointing overseers and apportioners of roads in the county of Russell.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That hereafter it shall be the duty of the justice of the peace, in and for the county of Russell, on the second Monday in March next, and every two years thereafter, to meet in their respective beats or precincts to apportion all the road hands in their precincts, and to appoint overseers for the same, and issue a commission to each overseer, which

Justice of peace.

shall have attached thereto a list of the hands apportioned to such overseer, and shall be directed to the proper constable of the beat or precinct, who shall, within ten days thereafter, give such overseers notice of their appointment, by serving them with a copy of their commission and the list of hands apportioned to each, or by leaving the same at the usual place of residence of such overseer.

Defaulters

SEC. 5. *Be it further enacted*, That all laws now in force in regard to defaulters, are hereby continued in force, and that the service now performed by the commissioners' court in connection with the road service in the county of Russell, shall be in each respective precinct, performed by the justice of the peace; and that hereafter it shall not be lawful for the judge of probate or sheriff of said county to make or receive any allowance for performing road service, as now allowed by the Code.

Certificate

SEC. 3. *Be it further enacted*, That the justices of the peace shall file a certificate of their appointment of overseers in the office of the probate judge, for the inspection of the grand jury, which list shall be filed within thirty days after the appointments are made; and the justices are hereby required to fill all vacancies which may occur from time to time.

SEC. 4. *Be it further enacted*, That the commissioners' court of said county may allow to said justices and constables such compensation as they may think proper.

SEC. 5. *And be it further enacted*, That all laws conflicting with the provisions of this act be and the same are hereby repealed.

SEC. 6. *And be it further enacted*, That all the provisions of this bill apply to the county of Jackson.

APPROVED, January 18, 1858.

[No. 351.]

AN ACT

For the relief of Russell J. Allen, of the county of St. Clair.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly con-* That the commissioner and trustee of the State bank and branches is hereby directed to deliver and pay to Russell J. Allen of the county of St. Clair, the sum of fifty dollars in

the bill or bills of the State bank or its branches, upon the surrender to him by the said Allen of the left hand half of a bill for fifty dollars, issued by the bank of the State of Alabama at Tuscaloosa, marked and numbered "Letter A, No. 1493, J. B. Cook, cashier;" *Provided*, That the right hand half of said bill has not been heretofore redeemed; *Provided, further*, That said Allen shall first execute a bond, with two sureties, in the penal sum of one hundred dollars, payable to the State of Alabama, and conditioned to protect and indemnify the State against all loss or damages on account of the payment of said bills.

APPROVED, February 6, 1858.

[No. 352.]

AN ACT

To enable the administratrix on the estate of James L. Craig, deceased, to remove the administration to Tallapoosa county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the judge of probate of the county of Talladega be, and he is hereby required to cause three copies to be made and duly certified of all the acts and doings of record in said county of Talladega, respecting the administration of the estate of James L. Craig, deceased, and deliver the same to Mrs. Margaret Craig, who is the administratrix, with the will annexed, on said estate.

Judge of probate

SEC. 2. *Be it further enacted*, That so soon as the said exemplification shall be delivered over to the judge of probate of the county of Tallapoosa, it shall be full authority for the said judge of probate of said county of Tallapoosa to proceed with the business of the estate in all matters, as if the administration had commenced with him.

SEC. 3. *Be it further enacted*, That from and after said exemplification is filed in Tallapoosa county as aforesaid, the administration shall cease and determine in the said county of Talladega; *Provided, always*, That all expenses that now are, or may be due in the county of Talladega be paid by the administratrix.

Proviso.

APPROVED, January 9, 1858.

[No. 353.]

AN ACT

To elect the county surveyor of Talladega county by the voters of said county, and the surveyor of Madison county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the county surveyor of Talladega county shall be elected by the qualified voters of said county.

SEC. 2. *Be it further enacted,* That the provisions of this act shall apply to the county of Madison.

APPROVED, January 13, 1858.

[No. 354.]

AN ACT

To repeal in part an act therein named, so far as it applies to Tallapoosa county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened.* That an act entitled an act to repeal in part the patrol law in the counties of Marshall, Cherokee and DeKalb, and others, be, and the same is hereby repealed, so far as it relates to Tallapoosa county.

APPROVED, February 6, 1858.

[No. 355.]

AN ACT

To define the boundaries of the town of Jasper, in the county of Walker.

SECTION 1. *Be it enveted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the corporate limits of the town of Jasper, in the county of Walker, be, and the same are hereby limited and restricted to the boundaries as fixed by the original

plan of said town, and assigned to said town by the act of the legislature heretofore incorporating the same.

SEC. 2. *Be it further enacted*, That the corporate limits of said town shall not be extended beyond the limits prescribed by the first section of this act, unless the persons who may be embraced by said proposed extension shall first consent thereto; any law to the contrary notwithstanding.

APPROVED, January 27, 1858.

[No. 356.]

AN ACT

Requiring the presentation of claims against Walker county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That all claims against the county of Walker, which have been heretofore issued, and are now due and unpaid, shall be presented by the holder thereof to the county treasurer of said county, within twelve months from the passage of this act, and all claims against said county which may be hereafter issued, shall be presented in like manner, within six months from the issue thereof, and any claim not presented as required by the provisions of this act, shall be forever barred as against said county.

APPROVED, February 6, 1858.

[No. 357.]

AN ACT

For the relief of John W. Creagh, of Wilcox county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John W. Creagh, a minor, of the county of Wilcox, be, and he is hereby authorized to manage and transact all business connected with his estate, and that all contracts which he shall make after the passage of this act, shall be as legal and as of full effect as though he were twenty-one years of age.

APPROVED, December 5, 1858.

[No. 358.]

AN ACT

To locate the county site of Winston county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sheriff of Winston county shall hold an election, at the several precincts in said county, on the first Monday in May next, for the purpose of enabling the people of said county to locate the seat of justice thereof, and the said sheriff shall give ten days' notice by advertising at each precinct the time and places of such election, and it shall be conducted in all other respects as elections for members of the General Assembly.

Sheriff to hold
election.

SEC. 2. *Be it further enacted,* That A. J. Judge, John Taylor, John W. Allen, Michael Dodd, Thomas J. Harville, Samuel Wiley, Sr., Deddy Lane, are hereby appointed commissioners to select two places and put in nomination for the seat of justice in said county of Winston, and the place receiving the highest number of votes, shall be the permanent seat of justice for said county.

Commissioners.

SEC. 3. *Be it further enacted,* That the said commissioners shall purchase, or receive by donation, forty acres of land at such place declared the seat of justice, and proceed forthwith to lay off said land in such form as they may think proper, and sell the same in lots as laid out, reserving a sufficiency for public buildings, and on such terms as they may think the most advantageous to said county.

Seat of justice.

SEC. 4. *Be it further enacted,* That said commissioners, first after paying the purchase money for said lands, shall pay the balance of the proceeds of the sale of the lots, into the county treasury, which shall only be used to pay for the building of the court house and jail in said county, and the said commissioner shall execute to the purchasers of said lots, such title as may be vested in them, and superintend the building of the court house and jail, when they may have a sufficient amount of funds in the treasury to commence on, and are hereby required to do, and perform, what they may think necessary and proper to carry this act into effect.

Commissioners to
superintend the
buildings.

SEC. 5. *Be it further enacted,* That within three months after said election, it shall be the duty of the circuit court clerk, judge of probate, and sheriff of said county, to remove all books, papers, and records, belonging to their respective offices, to such new county site, and all writs, and other processes up to that time, may be returnable to

the present county site, shall be deemed, and are hereby made returnable to the county site elected as aforesaid, and all courts of said county shall be held at the new county site.

SEC. 6. *Be it further enacted*, That the said commissioners shall take an oath to faithfully discharge their duties as commissioners aforesaid, and may receive one dollar and fifty cents for each day they may be necessarily employed in carrying out the provisions of this act: *Provided*, A majority shall have power to act: *Provided, further*, The commissioners' court may make such allowance, as they think proper, to the sheriff for his services in carrying out this act.

SEC. 7. *Be it further enacted*, That if the sheriff refuse, or fail, to comply with the requirements of this act, he shall be subject to all the penalties under the law for refusing, or neglecting, to perform similar duties.

APPROVED, January 30, 1858

[No. 359.]

AN ACT

For the relief of witnesses and jurors in certain cases therein specified.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That in all cases in which witnesses and jurors are summoned to attend upon the probate courts of this State, they shall be allowed the same compensation as witnesses and jurors attending upon circuit courts, to be taxed and collected by the judge of probate as other costs in the case.

SEC. 2. *Be it further enacted*, That in all cases in which jurors are summoned to attend upon the chancery courts of this State, they shall be allowed the same compensation as jurors attending upon the circuit courts, to be taxed and collected as other costs in the case in which they are called upon to serve as jurors.

APPROVED, January 19, 1858.

[No. 360.]

AN ACT

For the relief of William Brasseal, of Blount county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the secretary of state is hereby authorized, and it is hereby made his duty, to make titles to William Brasseal, of Blount county, for the following described lands, lying in the Huntsville land district: for the east half of the north-east quarter, the west half of the north-east quarter, and the east half of the north-west quarter, all in section sixteen, township ten, and range ten, east; all laws and parts of laws to the contrary notwithstanding.

APPROVED, January 12, 1858.

[No. 361.]

AN ACT

For the relief of Walter Trainum.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the judge of the probate court of Mobile county be, and he is hereby authorized to grant letters of guardianship over the person and property of Walter Trainum, a minor, to John Parkam, of Mobile, his uncle, in all respects as if the said Walter Trainum were a resident of said county.

APPROVED, January 22, 1858.

[No. 362.]

AN ACT

For the relief of J. J. Sublett, jailor of Jackson county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the county commissioners of Jackson county be, and they are hereby authorized to appropriate out of the funds in the treasury of said county, the sum of fifty-two dollars and fifty cents, for the payment of the account of J. J. Sublett, jailor of said county, for victualing certain prisoners who broke jail in said county; said jail having been wholly insecure and insufficient without any fault of said jailor.

APPROVED, January 22, 1858.

[No. 363.]

AN ACT

For the relief of Emeline R. Goode, of Marion county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Emeline R. Goode, of Marion county, Alabama, from whom William J. Goode, of said county, has obtained a decree of divorce, and who is still living, be and she is hereby permitted to marry again the same as if she had never contracted a marriage with the said William J. Goode; all laws and parts of laws to the contrary notwithstanding.

APPROVED, February 1, 1858.

[No. 364.]

AN ACT

For the relief of J. A. Smith, of Sumter county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the comptroller of public accounts draw his warrant on the treasurer of the State in favor of Joseph A. Smith for twenty-eight 10-100 dollars, money paid out by him for conveying a state prisoner from Tuscaloosa to Livingston, in Sumter county, Alabama.

APPROVED, February 5, 1858.

[No. 365.]

AN ACT

For the relief of D. B. Burkhalter, of DeKalb county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the Governor of the State be, and he is hereby authorized to issue a patent to D. B. Burkhalter, of DeKalb county, to the east half of the south-east quarter of section sixteen, township three, of range ten, east, in the Coosa land district, upon satisfactory proof being made that said Burkhalter has paid for said tract of land, and is the proper owner of the same.

APPROVED, February 6, 1858.

[No. 366.]

AN ACT

For the relief of John D. Price of Jefferson county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the comptroller of public accounts draw his warrant on the treasurer in favor of John D. Price for the sum of fifty dollars, for compensation to said Price, for apprehending and prosecuting to conviction, Isaac Bishop an

absconding felon, charged with horse stealing and now confined in the Penitentiary under conviction on said charge.

APPROVED, January 26, 1858.

[No. 367.]

AN ACT

For the relief of William T. Webb and his securities.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That John Whiting the commissioner and trustee to close the affairs of the State bank and branches be, and he is hereby authorized and directed to deliver to William T. Webb, a certain promisory note, on which John H. Y. Webb, and J. L. de Yampert, are the securities of the said William T. Webb, payable at the branch of the bank of the State of Alabama at Mobile, due first and fourth of January, 1858, for \$952 07 with interest, which said note was executed, by the said Webb and his securities, in lieu and payment of the notes of A. F. Alexander and Washington M. Smith, for a certain tract of land sold by F. S. Lyon as belonging to the said branch bank at Mobile.

SEC. 2. *Be it further enacted,* That the said John Whiting, or such commissioner and trustee be, and he is hereby required to pay to the said Webb such sum or sums, as the said Webb has paid to the commissioner and trustee of the bank, an amount of such indebtedness without any interest thereon: *Provided,* The said William T. Webb will first surrender up to such commissioner and trustee the obligation for titles given by the bank to the said Washington M. Smith and A. F. Alexander.

APPROVED, January 9, 1858.

[No. 368.]

AN ACT

For the relief of C. T. Pollard and others.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Charles T. Pollard, and the other securities in the official bond of George C. Ball, late clerk of the supreme court be, and they are hereby discharged from further liability on said bond in respect of the State tax on suits in the supreme court.

SEC. 2. *Be it further enacted,* That all laws and parts of laws contravening the provisions of this act be, and the same are hereby repealed.

APPROVED, January 9, 1858.

[No. 369.]

AN ACT

For the relief of Catharine J. Reid.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Catharine J. Reid, of Mobile county, widow of the late Robert Reid be, and she is hereby authorized, and enabled to take and hold dower in such estate of the said Robert Reid, deceased, as she might have been entitled by law, as if the said Robert Reid had not been an alien, but a natural born citizen of the United States, and that the estate of said Robert Reid, shall not escheat to the State.

APPROVED, January 9, 1858.

[No. 370.]

AN ACT

For the relief of Mrs. Miriam M. Rattenberry.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Miriam M. Rattenberry be, and she is hereby declared able and capable in law, of taking by descent, distribution or in any other lawful manner, the estate of her late brother, Rowland M. Lake, in the same manner as if he had not been an alien, and as if she had not been an alien: *Provided,* That nothing herein contained, shall be construed to the prejudice of the rights of the creditor of the said estate.

SEC. 2. *Be it further enacted,* That the State of Alabama does relinquish and grant to the said Miriam M. Rattenberry all right, title and interest in and to the estate of the said Rowland M. Lake, which now exists or might vest in the State by virtue of the law regulating escheats, and that said Miriam M. Rattenberry is hereby authorized and entitled to receive, take and hold all the estate of her late brother, the said Rowland M., saving, always the rights of creditors, as hereinbefore provided for.

SEC. 3. *Be it further enacted,* That all laws conflicting with the provisions of this act be, and the same are hereby repealed, as far as regards this act.

APPROVED, January 9, 1858.

[No. 371.]

AN ACT

For the relief of the estate of Albert Russell deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the court of probate of Madison county shall be, and is hereby empowered, for good cause shown, to authorize Martha J. Russell, as administratrix of the estate of Albert Russell, late of said county, deceased, or her successors in said administration, to keep the estate of said decedent, together, for a further period, not exceeding six years from the first day of January, 1858, and to cultivate with the slaves of said estate, the plantation in said county belonging

to said Martha J. Russell, (she covenanting thereto) for the benefit of said estate.

SEC. 2. *Be it further enacted*, That in the settlements, which shall from time to time be made of the accounts of said administration, or her successors, the court having jurisdiction of, and making such settlements, shall cause the said Martha J. Russell to be credited with the value of the rents of her said plantation, during the term it shall have been cultivated for the benefit of said estate, the value thereof to be ascertained by such court.

SEC. 3. *Be it further enacted*, That the administration of said estate, whilst kept together under this act, must, in all other respects, be governed by the law now in force, relative to the administration of estates, kept together by authority of law.

SEC. 4. *Be it further enacted*, That, in the event the said probate judge shall authorize the said estate to be kept together, as herein provided for, it shall be the duty of said probate judge to require of the administratrix, or her successors, a bond for the faithful discharge of his or her duty, which said bond shall be for an amount equal to twice the value of said estate.

APPROVED, January 17, 1858.

[No. 372.]

AN ACT

For the benefit of the estate of James Stapp, deceased, late of Pickens county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That it shall be lawful for the court of probate for Pickens county to grant an order, that the estate of James Stapp, late of said county, deceased, be kept together by the administratrix, or any subsequent administrator of said estate, until the oldest child of said decedent obtains its majority. It shall be lawful for said court to continue said order, with the consent of said oldest child, until the next child obtains its majority, and so on, until the youngest child becomes of full age in law: *Provided*, That such administratrix be required by said probate court to give a new bond

with security, with the proper conditions, to be approved of by the judge of such court.

SEC. 2. *Be it further enacted*, If any of the children of said decedent, on obtaining their majority, refuse to consent to the continuance of such order, and elect to draw their share, or shares, of said estate, it shall be lawful for said court to continue said order as to the others of said children who are minors, and those of full age who consent thereto.

SEC. 3. *Be it further enacted*, That the administratrix of said estate shall, in all other respects, conform to the general law governing estates of decedents.

SEC. 4. *Be it further enacted*, That the widow of said decedent, on filing with said court her written consent to the provisions of this act, and that her share of said estate may be kept with the residue, under such order as the court shall make, is thereby, and hereby restrained from the operation of any statute barring her right to dower, if not claimed within three years from the death of her husband, and upon the final settlement and distribution of said estate, she shall be entitled to such portion as is now provided for by law in like cases.

APPROVED, February 3, 1858.

[No. 373.]

AN ACT

For the relief of George G. Morrisette, of Monroe county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That George G. Morrisette, of the county of Monroe, be, and he is hereby released from the disabilities of non-age, so as to authorize him to make settlement with, and to receive from his guardian all his property, in the same manner, and to the same extent, as though he was of full age; and his guardian is hereby authorized and fully empowered, to settle with, and deliver to the said Morrisette, all his property, and the settlement and receipts of the said Morrisette shall be as effectual as if he were of full age. And the said George G. Morrisette is hereby authorized to exercise all the privileges and rights of an adult, except the right to vote; and he shall be subject to all the liabilities and duties of an adult, notwithstanding his non-age.

APPROVED, January 29, 1858.

[No. 374.]

AN ACT

For the relief of W. B. and A. R. Bell.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller be authorized to draw his warrant on the treasurer, in favor of W. B. and A. R. Bell, for the amount of one hundred and sixteen 50-100 dollars, to pay an account against the State.

APPROVED, February 6, 1858.

[No. 375.]

AN ACT

For the relief of W. B. and A. R. Bell.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller be, and he is hereby authorized and required to issue his warrant in favor of W. B. and A. R. Bell, upon the State treasurer, for the sum of seventeen hundred and seventy-four dollars and ninety-eight cents, to be paid out of any money not otherwise appropriated.

APPROVED, December 12, 1857.

[No. 376.]

AN ACT

For the relief of Peter McGee, late tax-collector of Pickens county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby required to draw his warrant on the State treasurer in favor of Peter McGee, late tax-collector of Pickens county, for the sum of three hundred and twenty-six 57-100 dollars, to be paid out of any money in the treasury not otherwise appropriated.

APPROVED, February 2, 1858.

[No. 377.]

AN ACT

For the relief of Harvey B. Marks.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Harvey B. Marks, of the city of Mobile, be, and he is hereby relieved from the disabilities and penalties imposed by law on all persons against whom a divorce may be granted, and that it shall be lawful for him to contract marriage, as if he had never been married.

APPROVED, February 8, 1858.

[No. 378.]

AN ACT

For the relief of Davis, Stratford & Dillard.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller be authorized to draw his warrant on the treasurer, in favor of Davis, Stratford & Dillard, for the amount of seven dollars and 15-100 dollars, to pay an account against the State.

APPROVED, February 8, 1858.

[No. 379.]

AN ACT

For the relief of the devisees of the heirs of Jane Barry, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the judge of the probate court of Greene county, be, and he is hereby authorized and required, to make an order, directing James R. Evans, administrator *de bonis non*, of William C. Head, deceased, to convey to the devisees of Jane Barry, deceased, certain lands purchased by the said Jane Barry, deceased, at the sale of the real estate of the

said William C. Head, made by Jesse H. Butler, the former administrator, under an order of the probate court; and such conveyance shall be made severally to the devisees of the said Jane Barry, of the parts of said lands devised to each of them respectively, and shall so operate as to divest the heirs at law of the said William C. Head of all title to said lands, and vest the same in the devisees of the said Jane Barry, deceased, severally, as above provided: *Provided*, That the said judge of probate, before making said order, shall be satisfied that the sale of said lands by the administrator of the said William C. Head, was fairly made, and that the purchase money has been fully paid off by the said Jane Barry, or her personal representatives.

APPROVED, February 8, 1858.

[No. 380.]

AN ACT

For the relief of John L. Pearce, guardian, &c.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John L. Pearce, guardian of William Benjamin Pearce, be, and he is hereby authorized to remove any and all property belonging to his ward, from Autauga county, Alabama, to the State of Louisiana, whenever he shall exhibit proof to the probate judge of said county of Autauga, that the said John L. Pearce has been regularly appointed and acknowledged as guardian aforesaid, according to the laws of Louisiana.

SEC. 2. *Be it further enacted*, That the provisions of the first section of this act being complied with, to the satisfaction of the judge of probate of Autauga county, the securities of the said John L. Pearce, upon his bond, as guardian of the said William Benjamin Pearce in the State of Alabama, may, and shall be discharged from all further responsibilities aforesaid.

SEC. 3. *Be it further enacted*, That all laws contravening the provisions of this act, be, and the same are hereby repealed.

APPROVED, February 8, 1858.

[No. 381.]

AN ACT.

For the relief of Elisha P. Minshew, of Cherokee county.

WHEREAS, Elisha P. Minshew, of the county of Cherokee, in the year 1844, purchased certain portions of section sixteen, in township eleven, range eleven, east, to wit: lot number one, containing one hundred and sixty acres, being the north-east fourth of said section; also, lot number four, containing one hundred and sixty acres, being the south-east fourth of said section: Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the governor be, and he is hereby required to issue patents to the said Elisha P. Minshew, for said lots, numbers one and four, in section sixteen, in township eleven, range eleven, upon being satisfied that said purchase money has been paid by the said Elisha P. Minshew.

APPROVED, February 6, 1858.

[No. 382.]

AN ACT

For the relief of Mary C. Grigsby, of Coosa county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Mary C. Grigsby, of the county of Coosa, be, and she is hereby relieved from the disabilities and penalties imposed by law on all persons against whom a divorce may be granted.

APPROVED, February 8, 1858.

[No. 383.]

AN ACT

For the relief of Henry F. Snow.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts, be, and he is hereby authorized and required, to draw his warrant on the State treasurer for the sum of fifty dollars, in favor of Henry F. Snow, to be paid out of any money in the treasury, not otherwise appropriated, for arresting, and taking to jail, one Larkin Brumlett, a murderer.

APPROVED, February 8, 1858.

[No. 384.]

AN ACT

For the relief of Jannett Smith, of Wilcox county.

WHEREAS, At a sale of the sixteenth section in township 11, range 6, in Wilcox county, on the 1st day of November, 1845, Jannett Smith became the purchaser of the west half of north east quarter, and east half of the north west quarter, fractional on west half of north west half; also, west half of south east quarter, of the sixteenth section in said township and range, for the sum of twenty-six hundred and sixty dollars, for which she executed her four several notes, payable one, two, three and four years after date, with interest from date; AND, WHEREAS, The interest on said notes was partially paid, as required by the commissioners, until 1st January, 1854, when said Jannett desired to pay her notes in full, and tendered the money therefor, and asked for the said notes which could not then, and cannot now be found. Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the commissioners of said sixteenth section be, and they are hereby authorized and required to settle with said Jannett Smith for said notes, remitting to her the interest thereon, since the 1st day of January, 1854, when she made the tender therefor of payment.

SEC. 2. *Be it further enacted,* That upon such settlement

with said commissioners, the secretary of state be, and hereby is authorized and required to issue patents to said Janett Smith for the above described lands, and that the notes which she gave for the said purchase money of said lands be, and the same are hereby declared null and void.

APPROVED, February 5, 1858.

[No. 385.]

AN ACT

For the relief of Aaron Green.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the secretary of state be required to issue a patent to Aaron Green, for fractional section sixteen, in fractional township fifteen, of range five in the Coosa land district; *Provided,* The Governor be satisfied that full payment has been made to the State for said land.

APPROVED, February 5, 1858.

[No. 386.]

AN ACT

For the relief of Robert W. McKelvey and Lucinda Spain.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Robert W. McKelvey and Lucinda Spain, were, and they are hereby declared to have been lawfully married as husband and wife, on the 29th day of June, 1852.

SEC. 2. *Be it further enacted,* That each and every child who has been, or may hereafter at any future time be born of said parents, is hereby declared legitimate, and entitled in every respect as though the union between the said Robert W. McKelvey and Lucinda Spain had been originally lawful.

APPROVED, February 1, 1858.

[No. 337.]

AN ACT

For the relief of Charlotte Ellis, of Green county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Charlotte Ellis, of the county of Green, be, and she is hereby declared to be a citizen of the State of Alabama, and as such authorized and entitled to acquire, purchase and hold in her own right, and in *fee simple*, as if she had been born a citizen of the United States or of this State, any property real or personal.

SEC. 2. *Be it further enacted,* That if the said Charlotte Ellis shall have, or shall hereafter purchase or acquire any real estate or other property in this State, she shall have power, right, and authority to sell, dispose of, or devise the same, to the same extent as if she were a native born citizen of this State, and if she dies without having in any way disposed of the same, by will or otherwise, in that event her estate both real and personal, shall descend to and be distributed amongst her next of kin, according to the statute of descents and distribution of this State.

APPROVED, February 2, 1858.

[No. 338.]

AN ACT

For the relief of W. McJohnson, of Marshall county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That W. McJohnson, of the county of Marshall, be, and he is hereby relieved from the disabilities of non age, so as to authorize him to make settlement with and to receive from his guardian all his property in the same manner and to the same extent as though he was of full age, and his guardian is hereby authorized and fully empowered to settle with and deliver to the said Johnson all his property, and the settlement and receipt of the said Johnson shall be as effectual as if he were of full age, and the said Johnson is hereby authorized to exercise all the privileges and rights

of an adult, except the right to vote, and he shall be subject to all the liabilities and duties of an adult notwithstanding his non-age.

APPROVED, February 2, 1858.

[No. 389.]

AN ACT

For the relief of Martin M. Nall, former sheriff of Pike county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of fifty-two dollars be, and the same is hereby appropriated to Martin M. Nall, of the county of Pike.

SEC. 2. *Be it further enacted,* That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrant upon the treasurer in favor of said Martin M. Nall, for the said sum of fifty-two dollars, to be paid out of any money not otherwise appropriated.

APPROVED, February 6, 1857.

[No. 390.]

AN ACT

For the relief James Camp, executor of Joseph Camp, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, James Camp, executor of the last will and testament of Joseph Camp, deceased, of the county of Choctaw, in the State of Alabama, be, and he is hereby empowered to hire out a part or all of the slaves belonging to the estate of said Joseph Camp, deceased, at private hiring at his own discretion.

SEC. 2. *Be it further enacted,* That the said executor, James Camp, shall not, within the meaning of this act, be

allowed the privilege of hiring out said slaves mentioned in section one, outside of the limits of Choctaw county, in State of Alabama.

APPROVED, February 2, 1858.

[No. 391.]

AN ACT

For the relief of the administrators of Richard Long, late of Pickens county, deceased.

WHEREAS, Richard Long, late of Pickens county, and State of Alabama, died in said county, seized and possessed of lands lying in Pickens county, Alabama, and of lands lying in Noxubee county, in the State of Mississippi, a great portion of which lands was cultivated by said Richard Long in his lifetime; AND, WHEREAS, Letters of administration have been granted to Alexander M. Wilkins and Drury Miller, upon the estate of said Richard Long, deceased, by the probate court of said county of Pickens:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That authority be, and is hereby given to Alexander M. Wilkins and Drury Miller, as the administrators of the estate of Richard Long, late of said county of Pickens, deceased, to employ and work as many of the slaves of said estate upon the farm of said deceased, lying in the county of Noxubee, in the State of Mississippi, as in their judgment may be necessary to carry on said farm.

APPROVED, January 26, 1858.

[No. 392.]

AN ACT

For the relief of the missionary society of the Cumberland Presbyterian Church, at Elyton.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That upon filing in the office of the comptroller of public accounts the right hand half of a fifty dollar bill, letter A, number 1297, dated August 5th, 1837, W. D. Stone, president of the bank of the State of Alabama, the said comptroller is hereby required to draw his warrant in favor of Jackson Phillips, clerk of the missionary society of the Cumberland Presbyterian Church, at Elyton, Alabama, for the sum of fifty dollars.

APPROVED, February 6, 1858.

[No. 393.]

AN ACT

For the relief of Richard Hudson, of Jefferson county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrant on the treasurer in favor of Richard Hudson, late sheriff of Jefferson county, for the sum of thirty-eight 95-100 dollars, for expenses incurred by him in bringing one Giles B. Britt, a State prisoner, from Jefferson county to Kingston, Autauga county.

APPROVED, January 29, 1858.

[No. 394.]

AN ACT

For the relief of Austin Murphree, sheriff of the county of Blount.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Austin Murphree, sheriff of the county of Blount, be, and he is hereby released from all liabilities and penalties he may have incurred from his failure to make returns of the election for Governor in the year 1857, all laws to the contrary notwithstanding.

SEC. 2. *Be it further enacted,* That the provisions of this bill be extended to the sheriffs of the counties of Clarke, Covington, DeKalb, Jackson, Macon, Marion and Morgan.

APPROVED, January 22, 1858.

[No. 395.]

AN ACT

For the relief of Elijah Woosley and James S. Bain, of the county of Marshall.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of forty dollars be, and the same is hereby appropriated to Elijah Woosley and James S. Bain, of the county of Marshall.

SEC. 2. *Be it further enacted,* That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrant upon the treasurer in favor of said Elijah Woosley and James S. Bain, for the said sum of forty dollars, to be paid out of any money not otherwise appropriated.

APPROVED, February 6, 1858.

[No. 396.]

AN ACT

For the relief of Nicholas Hudson, jailor of Blount county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts draw his warrant on the state treasurer in favor of Nicholas Hudson, jailor of Blount county, for the sum of seventeen dollars and ninety-six cents, for keeping John Hollingsworth, a prisoner of the United States, under a charge of robbing the mail, and for keeping Columbus Hollingsworth, a like prisoner, and under a similar charge, which sum shall be paid out of any monies in the treasury not otherwise appropriated.

APPROVED, January 20, 1858.

[No. 397.]

AN ACT

For the relief of George Powell, of Blount county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of fifty-four dollars and seventy-nine cents be, and the same is hereby appropriated to George Powell, of Blount county, to be paid out of a fund created by an act approved February 3d, 1854, to provide for a geological survey of the State, and that the comptroller be authorized to draw his warrant on the treasurer in favor of George Powell for the amount.

APPROVED, January 20, 1858.

[No. 398.]

AN ACT

For the relief of mechanics.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in addition to the property now exempt by law from levy and sale, for the use of every family in this State, that all materials which any mechanic, who is the head of a family, in this State, may have and hold for the purpose of being worked up or used in his trade, not exceeding two hundred dollars in value, shall hereafter be exempt from levy and sale under execution, or other legal process.

APPROVED, December 12, 1857.

[No. 399.]

AN ACT

For the relief of Abraham Pennington, late of Choctaw county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the school trustees for the time being, of township fifteen, of range one, west, in Choctaw county, be, and are hereby authorized and required to investigate the rights of the said Abraham Pennington, in respect to the north west quarter of section sixteen, in said township and range, and if they shall be satisfied that the said Abraham Pennington purchased and fully paid for said quarter section, they shall certify that fact in writing, and if they shall find that a portion of the purchase money still remains due, they shall certify the amount due thereon in like manner, or if it shall be doubtful whether all the purchase money for the said quarter section of land has been paid, the said trustees are hereby authorized and empowered to compromise the matter with the executor or heirs of the said Abraham Pennington, on such terms as they shall deem just and for the interest of the said township, and if they shall so compromise, they shall certify the terms thereof, and the amount, if any, to be paid by the said heirs or executor, in writing.

SEC. 2. *Be it further enacted*, That upon presentment of either of the certificates issued by the said trustees, pursuant to the first section of this act, to the secretary of state, with certificate of the superintendent of public schools, that the amount, if any, found to be due for said quarter section of land, or agreed to be paid as a compromise of the matter, has been paid to the said superintendent, the secretary of state shall issue a patent for the said quarter section of land, either to the executor of said Abraham Pennington, or to his heirs, which patent shall vest a complete legal title in the patentee, subject, however, to the debts of the said Abraham Pennington, and to the rights of his heirs or devisees.

SEC. 3. *And be it further enacted*, That any sum of money paid by the heirs or executors of the said Abraham Pennington, under the provisions of this act, shall constitute a part of the school fund of said township, and be subject to all laws in respect to public schools in this State.

APPROVED, February 3, 1858.

[No. 400.]

AN ACT

For the relief of Champeon Farris, tax collector of Marshall county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the comptroller of public accounts, be, and he is hereby required to draw his warrant on the State treasurer for the sum of ten dollars and eleven cents, to be paid out of any money not otherwise appropriated, in favor of Champeon Farris, tax collector of Marshall county.

APPROVED, February 5, 1857.

[No. 401.]

AN ACT

For the relief of John R. Bumpers, of Clarke county.

SECTION 1. *Be it enacted by the Senate and House of Representative of the State of Alabama in General Assembly convened,* That from and after the passage of this act, the commissioners of roads and revenue in the county of Clarke, are authorised and required to draw from the county treasurer of Clarke county, in favor of John R. Bumpers, for services rendered the county, the sum of two hundred and thirty dollars, of any money now in the treasurer's hands; excepting money collected for educational purposes, and that they pay immediately the same to him, his agent or attorney.

SEC. 5. *Be it further enacted,* That all laws and parts of laws in opposition to this act be, and the same are hereby repealed.

APPROVED, February 2, 1858.

[No. 402.]

AN ACT

For the relief of D. W. James, Administrator of Alexander Hill, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representative of the State of Alabama in General Assembly convened,* That D. W. James, administrator of the estate of Alexander Hill, deceased, be and he is hereby authorized to execute a deed of conveyance to the following tract of land: the south-east quarter of section fifteen, township twenty-four, range eleven, east; east half of south-east quarter of section sixteen, township twenty-four, range eleven, east, to N. J. Smith, of Bibb county: *Provided,* That the said administrator accounts to the probate court of said county for the full amount for which said land was sold by said administrator, at public outcry, and bid off by Isaac B. Davis, since deceased; and the contract between the said Davis and the said J. N. Smith, made after the purchase of said land, but which was not consummated, in consequence of the death of said Davis; which was intended between the said parties to vest the said Smith with the title to said

land, and to authorise the said administrator to convey the same to the said Smith, is hereby legalized and declared valid, any law to the contrary notwithstanding.

APPROVED, February 4, 1858.

[No. 403.]

AN ACT

To amend an act to enable Silas Morphew, of the county of Walker, to erect a dam therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That an act to enable Silas Morphew, of the county of Walker to erect a dam therein named, approved February 5, 1856, be so amended as to allow Aaron Morphew to avail himself of the benefit of said act; and that said act be further amended, so as to allow said Aaron Morphew to raise the said dam seven and a half feet above the mud sills, and not higher.

APPROVED, February 3, 1858.

[No. 404.]

AN ACT

For the relief of James Shepherd Diggs and Mary Ann Diggs, of Dallas county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Jas. Shepherd Diggs, who is now about twenty years of age, notwithstanding his minority, be, and he is hereby authorised to sue and be sued, contract and be contracted with, and to receive his estate from the hands of his guardian, and give receipts and acquittances therefor, to purchase and convey real estate, and to do all things as fully and to all intents and purposes, as though he were twenty-one years of age.

SEC. 2. *And be it further enacted,* That Mary Ann Diggs,

of the county of Dallas, shall be entitled to all the benefits, rights and privileges of this act, and subject to all its requisitions, any law to the contrary notwithstanding.

APPROVED, February 4, 1858.

[No. 405.]

AN ACT

For the relief of Laurence S. Banks, of the county of Morgan.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of one hundred and fifteen dollars be, and the same is hereby appropriated, for the purpose of paying Laurence S. Banks, of the county of Morgan, the expenses incurred by him as deputy sheriff of said county, on the commitment trial of James H. Deloney, charged with the murder of Moses S. Morris.

SEC. 2. *Be it further enacted,* That the comptroller of public accounts be, and he is hereby authorised and required to draw his warrant upon the treasury in favor of the said Laurence S. Banks for the said sum of one hundred and fifteen dollars, to be paid out of any monies in the treasury, not otherwise appropriated.

APPROVED, February 6, 1858.

[No. 406.]

AN ACT

For the relief of James Scales, Jr.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter when it becomes necessary for James Scales, Jr., to take the oath against dueling, required by section 110 of the Code, the said oath shall be confined in point of time, to the 14th day of November, A. D. 1857.

APPROVED, January 22, 1858.

[No. 407.]

AN ACT

To compensate John W. Shepherd for his services as clerk on the committee on the judiciary of the House of Representatives.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John W. Shepherd, of Montgomery, shall be entitled to receive, as compensation for his services as clerk of the committee on the judiciary of the house of representatives, the sum of five dollars *per diem* from the time of his appointment as such clerk, under the resolution of the house of representatives, adopted on the 25th of November last; and that the comptroller of public accounts be, and he is hereby required to draw his warrant on the state treasurer in favor of said John W. Shepherd for the aggregate amount of such compensation, on the production of a certificate from the chairman of said committee as to the time of his appointment, and the number of days he has served as such clerk; which sum is to be paid out of any monies in the treasury not otherwise appropriated.

APPROVED, February 6, 1858.

[No. 408.]

AN ACT

For the relief of Hart McCall, late tax collector of Barbour county, and his sureties.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the attorney general be and he is hereby directed to make an entry of satisfaction on a judgment in the circuit court of Montgomery, and upon execution issued on said judgment, in favor of the State of Alabama, against Hart McCall, late tax collector of Barbour county, principal, and Paul McCall, John W. Jackson, Ira Lampsley, Thomas F. Baxter, John McKenzie, Daniel McCall, John W. Clark, and William Johnson, sureties: *Provided*, All said judgment has been or shall hereafter be paid, except

the sum of eight hundred dollars, principal, and eight hundred and eighty-one 25-100 dollars, damages, which alone it is hereby intended to be relinquished.

APPROVED, February 3, 1858.

[No. 409.]

AN ACT

For the relief of David C. Webb, of Cherokee county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby authorised to draw his warrant upon the treasurer for the sum of fifty dollars in favor of David C. Webb, sheriff of Cherokee county.

APPROVED, February 2, 1858.

[No. 410.]

AN ACT

For the relief of John S. Barnes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of two hundred and fifty dollars be, and the same is hereby appropriated to John S. Barnes, on account of expenses incurred by him in arresting and bringing from the State of Mississippi to the county of Shelby, one William Atkins, a notorious horse thief, who was convicted upon the charge of horse stealing at the spring term, 1857, of the circuit court of said county.

SEC. 2. *And be it further enacted,* That the comptroller be, and he is hereby authorised and required to draw his warrant upon the treasurer in favor of John S. Barnes for the said sum of two hundred and fifty dollars, to be paid out of any money in the treasury not otherwise appropriated.

APPROVED, February 1, 1858.

[No. 411.]

AN ACT

For the relief of the trustee of the estate of Louisa H. Stringfellow, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the chancellor of the middle chancery division of the State of Alabama be, and he is hereby authorised to make an order, either in term time or in vacation, transferring the settlement of the trust estate of Mrs. Louisa H. Stringfellow, deceased, from the court of chancery of the seventeenth chancery district, at Marion, to the sixteenth chancery district, at Cahaba.

APPROVED, February 3, 1858.

[No. 412.]

AN ACT

For the relief of William L. Butler, of Shelby county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That William L. Butler, of the county of Shelby, be, and he is hereby restored to all his rights as a citizen of said State, of which he was deprived by law in consequence of his conviction of a penitentiary crime.

APPROVED, February 6, 1858.

[No. 413.]

AN ACT

For the relief of Joshua Lyon, tax collector of Sumter county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby required to draw his warrant on the state trea-

surer for the sum of fifty-six dollars and fifteen cents, to be paid out of any money not otherwise appropriated, in favor of Joshua Lyon, tax collector of Sumter county.

APPROVED, February 8, 1858.

[No. 414.]

AN ACT

For the relief of Joshua Lyon, tax collector of Sumter county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby required to draw his warrant on the treasury in favor of Joshua Lyon, tax collector of Sumter county, for two hundred and eighty dollars and eighty-seven cents: *Provided,* That the said Joshua Lyon shall first pay into the treasury all the taxes due from the county of Sumter for the years eighteen hundred and fifty-five and six, excepting interest and damages, from which he is hereby released: *Provided,* He makes said payment by the first day of March, A. D. 1858, any law to the contrary notwithstanding.

APPROVED, February 2, 1858.

[No. 415.]

AN ACT

For the relief of the administrator of Peter F. Patrick.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Washington A. Gilbert, the present administrator of the estate of Peter F. Patrick, deceased, be, and he is hereby fully and completely authorised and empowered as such administrator, to do and perform all such acts and things, and make and enter into and execute, perform and discharge all such contracts and agreements as may in anywise be necessary or required, to continue the carrying of the mails between the town of Courtland and the city

of Tuscaloosa, and all other places mentioned in the contract of said deceased with the government of the United States, until said contract shall have expired by limitation.

SEC. 2. *Be it further enacted*, That all the acts, doings and contracts of the said administrator, by him done, performed and entered into, since the death of said deceased up to the passage of this act, and which might have been done and performed lawfully, had this act been in force at the time of the performance of said acts, doings and contracts, which were in anywise required or necessary in the performance of said contract for carrying said mails be, and the same are hereby legalised. Former acts legalized.

SEC. 3. *Be it further enacted*, That said administrator shall report all his acts, doings and contracts, touching the carrying of said mails, heretofore done or performed, or which may hereafter be done or performed, touching the carrying of said mails, to the court of probate of the county of Lawrence; and said court of probate shall take full and complete jurisdiction of the same, and of all acts of said administrator arising under the powers conferred by this act, and make such orders and decrees as may be needed for the protection of said administrator in the management of said estate, as may be required under the powers conferred by this act. Administrator to report to Probate judge.

SEC. 4. *Be it further enacted*, That this act shall apply to any subsequent administrator of said estate, until the duties arising under said contract to carry said mails are fully performed and settled up.

SEC. 5. *And be it further enacted*, That said administrator or his successor be, and he is hereby empowered to sell the coaches, hacks, buggies and stage horses, privately or at valuation, to his successor in carrying said mails, or to any other person, which may be on hand when the contract of said Peter F. Patrick expires by limitation, and make report as heretofore provided. Sell stock, &c.

APPROVED, December 7, 1857.

[No. 416.]

AN ACT

To compensate John W. Clarke, of Barbour county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby authorised to draw his warrant on the treasury for two hundred dollars, to compensate John W. Clarke for arresting Wilson White, a fugitive from justice.

APPROVED, February 2, 1858.

[No. 417.]

AN ACT

For the relief of Matilda Street, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the probate judge of Cherokee county be, and he is hereby invested with full power and authority to order the sale of any lands which may have been heretofore selected and set off by the action of said court to Matilda Street, as the widow of James C. Street, deceased, and the children of the said deceased, upon the application of said widow, or either of said children, or the guardian thereof: *Provided,* The said court shall be governed in all respects touching said application and order of sale, by the rules, regulations and restrictions contained in the act entitled "an act to amend an act, approved February 15th, 1854, and to extend the jurisdiction of the probate courts of the several counties in this State, approved February 5th, 1856."

SEC. 2. *And be it further enacted,* That before granting said order of sale, the said judge shall be satisfied, from evidence taken as in chancery cases, that it would be to the interest of said widow and children to sell said lands.

APPROVED, January 9, 1858.

[No. 418.]

AN ACT

For the relief of Hester Seaward, administratrix, and John R. Brister, administrator of the estate of James M. Seaward, deceased.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Hester Seaward, the administratrix, and John R. Brister, the administrator, of the estate of James M. Seaward, late of Lawrence county, in the State of Alabama, deceased, may, and they are hereby authorized and empowered to remove the administration of the estate of said deceased, and the property and effects of said deceased in their hands to be administered, from the said county of Lawrence, in this State, to the State of Mississippi, by making a full and complete settlement of their said administration of the estate of said deceased, with the judge of probate of said county of Lawrence, in this State, as required on final settlement of administrations by the laws of this State, and procuring a transcript of the record of a court of competent jurisdiction in said State of Mississippi, certified as required by the act of Congress, showing the appointment of said Hester Seaward, and said John R. Brister, or one of them, as the administratrix, or the administrator, (as the case may be) of the estate of said deceased, in said State of Mississippi; the execution of a bond with sufficient surety for the performance of the trust of administration in the State of Mississippi, as required by the laws of that State, and adducing testimony before the judge of probate of said county of Lawrence, in open court, that said sureties to said bond so executed in the State of Mississippi are sufficient; and that said administratrix and administrator, or either of them that may act as such in the State of Mississippi, have, or has complied with all the requisitions of the laws of said State of Mississippi in returning full and complete inventories of the property and effects of said deceased, in their hands to be administered, and charging themselves, or him, or herself, with the same, and rendering themselves, or either of them that may act in the State of Mississippi, and their sureties on their bond there, liable to account for the same as required by the laws of that State, then the judge of probate of said county of Lawrence, in this State, shall make an order, or orders, as the case may require, for the removal of said administration of the estate, and the property and

Remove administration.

Mississippi.

Judge probate of Lawrence co.

Bond and sureties.

effects of said deceased, to the State of Mississippi, and discharge the said administratrix and administrator from further accounting as such in this State: *Provided, nevertheless,* That the proofs, testimony, and certified record, in the section above required to be adduced, shall be so adduced and produced, exhibited and shown before the judge of probate of said county of Lawrence, in this State, in open court.

APPROVED, February 6, 1858.

[No. 419.]

AN ACT

For the relief of Jefferson Falkner.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of one hundred dollars be paid to Jefferson Falkner, out of any money in the treasury not otherwise appropriated, for services rendered by said Falkner to the State in collecting a judgment in favor of the comptroller of public accounts, against A. Sawyer, and others, securities of William B. Campbell, tax collector of Randolph county for the year A. D. 1843; and the comptroller of public accounts is hereby authorized and required to draw his warrant on the treasurer, in favor of said Falkner, for the sum aforesaid.

APPROVED, February 5, 1858.

[No. 420.]

AN ACT

For the relief of F. A. Hinse.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller be authorized to issue his warrant upon the treasurer for the amount of fifty-eight dollars

in favor of F. A. Hinse; it being expenses paid by said Hinse for arresting and bringing William Hale, a prisoner from the State of Louisiana.

APPROVED, February 6, 1858.

[No. 421.]

AN ACT

For the relief of the corporation of the town of Greenville.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That N. F. Posey, intendant of the town of Greenville be, and he is hereby invested with full power and authority to order an election for an intendant and councilors for the town of Greenville, subject to the same provisions that are authorized and required by the corporate authorities of said town for the election of successors in office, and that the said election shall have the same legal effect as if held in pursuance of an order from the legally constituted corporate authorities of said town.

APPROVED, February 5, 1858.

[No. 422.]

AN ACT

For the relief of defendants in execution in Autauga county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That whenever real estate or personal property is levied on by the sheriff of Autauga county, to satisfy an execution or other legal process in his hands, it shall or may be lawful for the defendant in execution to indicate in writing his desire that the same should be exposed to sale, at West Wetumpka, Autaugaville, or Prattville, whereupon it shall be the duty of the sheriff aforesaid, after due notice, as now required by law, to sell said property at the place selected in the written application made by the defendant: *Provided,* That where no other place is selected

in writing by the defendant, before the advertisement of sale, the same shall be had and made at the court house, as now required by law: *And provided further*, That all sales made under the provisions of this act shall be on the second Monday in each month, and that the regular sales on the first Monday in each month shall continue to be made at the court house as now provided by law.

SEC. 2. *Be it further enacted*, That when property is sold under the provisions of this act, it shall be the duty of the sheriff to set forth in his title to the purchaser the fact that said property was exposed for sale at the particular place at which it shall take place by the written request of the defendant.

SEC. 3. *Be it further enacted*, That this act shall take effect from and after the first Monday of April next.

SEC. 4. *Be it further enacted*, That all laws and parts of laws, contravening the provisions of this act, be and the same are hereby repealed.

APPROVED, February 6, 1858.

[No. 423.]

AN ACT

For the relief of W. T. Cleveland, sheriff of Mobile county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrant on the state treasurer, in favor of Ulysses T. Cleveland, sheriff of Mobile county, for the sum of two hundred and fifty-one 60-100 dollars, for boarding and clothing Peter *alias* Frank, and William Evans, and James Cavanaugh, while in Mobile jail, including Dr. E. P. Gaines' medical bill for attending on said prisoners while sick in jail, to be paid out of any money in the treasury not otherwise appropriated.

APPROVED, February 8, 1858.

[No. 424.]

AN ACT

To pay Given & Elsberry for the rent of room for an arsenal.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts is hereby authorized and required to draw his warrant on the treasurer in favor of Given & Elsberry, for the sum of one hundred and fifty dollars, for the rent of a room for the storage of the public arms of the State, &c., up to January 1, 1858.

APPROVED, December 18, 1857.

[No. 425.]

AN ACT

To compensate J. J. Ormond, and A. S. Nicholson, for services rendered the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrant on the state treasurer in favor of Ormond and Nicholson, for the sum of five hundred dollars, for services rendered the State, to be paid out of any monies in the treasury not otherwise appropriated.

APPROVED, December 3, 1858.

[No. 426.]

AN ACT

For the benefit of the estate of Pleasant Hill, deceased, late of Bibb county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That S. W. Davidson, administrator of the estate of Pleas-

ant Hill, late of Bibb county, deceased, is hereby authorized to sell the plantation of the said decedent, lying on the Cahaba river in said county, at public or private sale, for cash or on a credit of not exceeding five years, in equal installments, bearing interest, the purchase money to be secured by personal security, without impairing the lien upon the land, and to re-invest the proceeds under the direction of probate court of Bibb county; *Provided*, That said sale shall not be made unless the widow of said decedent file in said court her written assent thereto, and that her dower interest be sold therewith, as provided for by section 1873 of the Code; *and Provided further*, That said sale shall not be valid until confirmed by the said court of probate as other sales of land by order of said court are required to be confirmed.

SEC. 2. *And be it further enacted*, That said administrator, with the written consent of the widow, and the assent of the judge of probate of said county, may, at public or private sale, sell any of the slaves for re-investment, said sale to be confirmed by the said probate court before it is valid.

APPROVED, February 4, 1858.

[No. 427.]

AN ACT

For the relief of the deaf and dumb.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That an act approved February 9th, 1853, entitled an act for the relief of the deaf and dumb, and the acts amendatory of said act, approved respectively on February 2d, 1854, and February 15th, 1856, be, and the same are hereby re-enacted and kept in full force and effect, unless so far as the same are altered and amended in this act.

SEC. 2. *Be it further enacted*, That the money appropriated by the acts aforesaid, be expended under the management and direction of the state superintendent of free public schools in Alabama, in the manner and form in which the Governor is required by said act to expend said sum appropriated.

SEC. 3. *Be it further enacted*, That the Governor and superintendent aforesaid, be, and are hereby constituted

joint commissioners to locate the school provided for in the acts hereby re-enacted, and to appoint the teacher or teachers of said school.

APPROVED, February 4, 1858.

[No. 428.]

AN ACT

To compensate B. B. Davis for stationary, certified to be bought by the doorkeeper.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller be authorized to draw his warrant on the treasurer in favor of B. B. Davis, for the sum of thirty-eight 25-100 dollars, it being the amount due for stationary as certified by the doorkeeper of the house of representatives.

APPROVED, February 6, 1858.

[No. 429.]

AN ACT

Making appropriations for the fiscal years 1858 and 1859.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the following sums of money be, and the same are hereby appropriated to be paid to the following persons in the payment of claims against the State for the year one thousand eight hundred and fifty-eight and nine:

Appropriations
for 1858-'59.

To pay members of the General Assembly for the present session of the legislature, sixty thousand dollars.

To the Governor of the State, four thousand dollars per annum.

To the secretary of state, twelve hundred dollars per annum.

To the comptroller of public accounts, two thousand dollars per annum.

Appropriations
for 1858-'59.

To the state treasurer, eighteen hundred dollars per annum.

To the judges of the supreme court, each, three thousand dollars per annum.

To the supreme court reporter, twelve hundred dollars per annum.

To the chancellors, each, two thousand dollars per annum.

To the attorney general, four hundred and twenty-five dollars per annum.

To the solicitors of judicial circuits, each, two hundred and fifty dollars per annum.

To the judges of circuit courts, each, two thousand dollars per annum.

To the adjutants and inspector generals, four dollars per day for each day they shall be engaged in the actual duties of their offices, not to exceed two hundred dollars per annum.

To the quarter-master general, four dollars per day for every day he is actually employed in the duties of his office, not to exceed one hundred and fifty dollars per annum.

To pay salary of clerks in the comptroller's office, five hundred dollars per annum.

To the principal secretary of the senate, and the principal clerk of the house, each, seven dollars per diem for each day of this session.

For the assistant and engrossing secretary of the senate, and for the assistant and engrossing clerks of the house of representatives, each, the sum of five dollars per day for each day of this session.

For the pay of such additional clerks as may be employed by the senate and house of representatives, the sum of five dollars per day, each, for the number of days employed, to be certified by the presiding officer of each house.

For the salary of superintendent of education, two thousand dollars per annum.

To the doorkeepers of the senate and house of representatives, the sum of five dollars per day, each, for the number of days the two houses are sitting during the present session.

To Frederick LaForge, the sum of two dollars per day for the number of days the house is sitting during the present session, since his election as messenger of the house.

To the secretary of state, for placing marginal notes of the laws, reading the proof sheets, and superintending the printing of the same, copying the journals of both houses, at the present session, preparing indexes to the laws and

journals, and the distribution of the same, four hundred dollars.

Appropriations
for 1857-'58.

To the secretary of the senate and chief clerk of the house of representatives, for completing the journals of their respective houses, arranging and filing away papers in proper order for the next session of the General Assembly, each, one hundred and fifty dollars.

SEC. 2. *Be it further enacted*, That the sum of twelve hundred dollars be, and the same is hereby appropriated for the purchase of stationery for the General Assembly, executive and State officers, and judges of the supreme court, and the comptroller shall draw his warrant on the presentation of any original voucher, with the certificate of the secretary of state, that the same is correct, for the amount thereof, not to exceed this appropriation.

SEC. 3. *Be it further enacted*, That the sum of eight hundred dollars is hereby appropriated, to pay for the distribution of the laws and journals of the present General Assembly, and the comptroller of public accounts shall draw his warrant on the treasurer in favor of the several agents engaged in the distribution, upon their producing the certificate of the secretary of state, that the sums charged are according to contract, and that the services had been performed.

SEC. 4. *Be it further enacted*, That the comptroller of public accounts is hereby authorized to draw his warrant on the state treasury for the several sums of money herein appropriated, at the times payable by law, on the production of proper vouchers and receipts therefor.

SEC. 5. *Be it further enacted*, That the clerks, secretaries and doorkeepers of each house shall be entitled to their regular pay during the recess of the legislature.

APPROVED, December 19, 1857.

[No. 430.]

AN ACT

To compensate certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrants on

To compensate
certain persons
therein named.

the treasurer in favor of the following persons for the following sums of money in the treasury, not otherwise appropriated:

To White & Pfister, seven hundred and ninety-five dollars and seventy-six cents, for stationary and other articles.

To Smith & Hughes, fifty dollars for trimming and binding four thousand reports of state superintendent of education.

To A. Balch, for two hundred and eighty-four dollars and eighty-two cents.

To Metcalf & Weaver, for one hundred and eighty-one dollars and ninety cents, for candles and other articles.

To William D. Sankey for one hundred and fifty dollars for arresting and bringing back a negro thief by the name of Gardner.

To William N. Adkinson, for the sum of two hundred and sixty-two dollars for arresting and bringing to trial one John A. Collins.

To Brittan & Cain, for the sum of sixty-three dollars, for carpeting for two rooms of the State house.

To C. Rose, W. S. Rose, H. S. Rose, Henry Pearson and Spicery Pearson, four hundred dollars for arresting one Thomas Lyle Nix.

To John Eady, two hundred and forty dollars for feeding prisoners.

To J. H. Jaret, sixteen dollars for services rendered the State.

To Alexander B. Clitherall, thirty-two dollars for servant hire for the present General Assembly.

SEC. 2. *And be it further enacted*, That the assistant and engrossing clerks of the house, shall each receive one dollar per day in addition to the per diem allowed by law, for the time the General Assembly has been in session.

APPROVED, February 8, 1858.

[No. 431.]

AN ACT

For the use of certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the following sums of money be, and they are hereby appropriated for the benefit of the following persons, to wit:

Compensate certain persons therein named.

The sum of sixty-four dollars to J. L. Gilders, for medical services rendered State prisoners confined in the county jail of Coosa county, under indictment for bigamy.

The sum of fifty dollars to Thomas Chilcoat, of Hancock county, for pursuing and arresting Burrell Pate for horse stealing.

To W. Harwell, the sum of sixty-five dollars for guarding and feeding prisoners.

Wm. P. & D. L. Turner, in the county of Choctaw, the sum of thirty-two dollars and fifty cents.

To J. W. Faith, of Washington county, for conveying Nicholas and Benjamin Thomas from Washington county to the jail of Clarke, under an order of Hon. W. S. Mudd.

SEC. 2. *Be it further enacted,* That the comptroller draw his warrant for the said several sums of money in favor of the several persons above named, to be paid out of any money in the treasury not otherwise appropriated.

APPROVED, February 6, 1858.

[No. 432.]

AN ACT

To compensate J. J. Adams of Lowndes county, for certain services rendered the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrant on the state treasurer in favor of J. J. Adams, of the county of Lowndes, for the sum of seventy-two 75-100 dollars, that being the amount due said Adams for expenses and services rendered as special constable in keeping and conveying Pinkney L. McCoy to the jail of said county.

APPROVED, February 8, 1858.

[No. 433.]

AN ACT

For the relief of Robert A. McGibbony.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of one hundred dollars be paid to Robert A. McGibbony, of Montgomery county, out of any monies in the treasury not otherwise appropriated, for arresting and having committed to the jail of Montgomery county, N. H. King and John Sheppard, charged with the crime of kidnapping a free white boy named Frank Moree, by enticing away from his home in Chambers county said white boy, and confining him against his will and attempting to sell him for a slave, and that the comptroller of public accounts be directed and authorized to issue his warrant on the treasurer in favor of said McGibbony for said sum of money.

APPROVED, February 8, 1858.

[No. 434.]

AN ACT

For the relief of L. P. Butler, of Montgomery county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the hands belonging to L. P. Butler, living in beat number one (1) of Montgomery county, shall be allowed to work on the road in beat number four (4) of Montgomery county.

APPROVED, January 22, 1858.

[No. 435.]

AN ACT

For the relief of Robert C. Macy.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That there shall be and hereby is appropriated the sum of three hundred and thirty-two dollars to reimburse Robert C. Macy, in the amount he paid and advanced to F. F. Philibert, for going from Mobile to New Bedford, Massachusetts, and bringing back under the requisition of His Excellency the Governor of this State, one John W. Macy, a fugitive from justice, who has been indicted in Mobile county for forgery, which sum shall be paid to said Robert C. Macy out of any monies in the treasury not otherwise appropriated.

APPROVED, February 8, 1858.

[No. 436.]

AN ACT

For the relief of Professor J. W. Mallett.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be authorized and is hereby required to draw his warrant on the treasurer in favor of Professor J. W. Mallett, for the sum of six hundred and forty dollars and twenty-five cents, for services as assistant to the State geologist, to be paid out of and charged to a fund created by "an act to provide for a geological survey of the State of Alabama," approved February 3, 1854.

APPROVED, February 8, 1858.

[No. 437.]

AN ACT

For the relief of William P. Ashley.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts is hereby directed to draw his warrant on the state treasurer in favor of William P. Ashley, for the sum of one hundred and sixty-eight dollars and thirty-one cents, for his services in bringing back to Alabama a fugitive from justice, to be paid out of any money in the treasury not otherwise appropriated.

APPROVED, February 6, 1858.

[No. 438.]

AN ACT

For the relief of J. A. Watterson.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be authorized and required to draw his warrant on the state treasurer in favor of J. A. Watterson, for the sum of six hundred and twenty-six dollars, to be paid out of the fund set apart for the education of the deaf and dumb, it being to compensate the said Watterson for his services as a teacher of the deaf and dumb school, and to refund to him money expended by him in the purchase of necessary supplies for said school.

APPROVED, February 8, 1858.

[No. 439.]

AN ACT

For the relief of Simon B. Smith, late tax collector of Tallapoosa county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrant on the state treasurer in favor of Simon B. Smith, late tax collector of the county of Tallapoosa, for the sum of one hundred and thirty-one dollars and forty-one cents, to be paid out of any funds in the treasury not otherwise appropriated, it being the amount for lands sold for non-payment of taxes for the year 1856, which said lands were, by said collector, bid off for the State of Alabama, at the sales thereof, which were made after he had paid into the State treasury the taxes due from said county for the year 1856; *Provided, however,* That the said tax collector shall first deliver to said comptroller the proper certificate or certificates of purchase for the lands thus sold and bid off for the State.

APPROVED, February 8, 1858.

[No. 440.]

AN ACT

For the relief of Benjamin B. Avary, of Chambers county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts is hereby authorized to draw his warrant on the treasurer of the State in favor of Benjamin B. Avary for the sum of one hundred and thirty-five dollars and twenty-six and a half cents, for that amount of excess or double tax paid by him for the year 1856.

APPROVED, February 8, 1858.

[No. 441.]

AN ACT

To compensate Clark Cross, for services rendered.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby authorized and required to draw his warrant on the state treasurer for the sum of fifty dollars in favor of Clark Cross, to be paid out of any monies in the treasury not otherwise appropriated, for his services in bringing Adam Scott, a fugitive from justice, to the State of Alabama, under appointment of the Governor of said State.

SEC. 2. *And be it further enacted,* That William A. Austin be, and he is hereby authorized to draw the same.

APPROVED, January 14, 1858.

[No. 442.]

AN ACT

To compensate John A. Elmore and M. A. Baldwin, for services rendered the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of fifteen hundred dollars be, and the same is hereby appropriated to the payment of John A. Elmore, Esq., for services rendered as attorney for the State of Alabama, in the litigation between the State and the Mobile and Ohio Railroad company.

SEC. 2. *Be it further enacted,* That the sum of one thousand dollars be, and the same is hereby appropriated to the payment of Marion A. Baldwin, Esq., for extra official services rendered the State of Alabama in the litigation between the State and the Mobile and Ohio Railroad company.

SEC. 3. *And be it further enacted,* That the comptroller of public accounts is hereby authorized to draw his warrants on the treasurer of the State in favor of the said John A. Elmore and Marion A. Baldwin, respectively, for the sums appropriated as aforesaid.

APPROVED, February 1, 1858.

[No. 443.]

AN ACT

For the relief of Ward P. Lay, of Sumter county.

WHEREAS, the tax collector of Sumter county, Alabama, on the 5th of August, 1856, bid off to the State, lots No. 68, 69, and half of lot No. 8, in the town of Gainesville, in said county, for sixty dollars, the amount of taxes due from James L. Childress; AND WHEREAS, said lots were, at that time, under a deed of trust to Ward P. Lay, as security for said Childress—

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the said Ward P. Lay may, within three months from the date of the approval of this act, redeem the said lots by paying to the comptroller of said State the said sum of sixty dollars, with interest from the said fifth day of August, 1856, and any expenses that shall have been incurred in reference to the sale thereof, and that upon payment thereof the title and claim of said State to the said lots shall be extinguished.

SEC. 2. *And be it further enacted,* That the said comptroller, upon receiving said money, shall account therefor as in other taxes received or receivable by him.

APPROVED, February 8, 1858.

[No. 444.]

AN ACT

For the relief certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That hereafter when it becomes necessary for Joseph H. Phillips, John T. Prather, jr., William Brown, J. H. Moorefield, T. L. Appleby and L. C. Danner, of Chambers county, and William M. Brooks, of Perry county, or either of them, to take the oath against duelling required by section 110 of the Code of Alabama, the said oath shall be confined to the first day of November, 1857.

APPROVED, February 3, 1858.

[No. 445.]

AN ACT

For the relief of James H. Daughdril, Elisha B. Lot, and Henry Hunt, tax collectors of Mobile county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of the State be, and he is hereby authorised and required to settle the accounts of James H. Daughdril, Elisha B. Lot, and Henry Hunt, respectively, as tax collectors of Mobile county; and in such settlements, that such allowances for insolvencies as may be equitable shall be made, and such allowances be also made for certificates for lands bid in at the tax collector's sale for the State, as may be just and equitable, in the same manner as if the time prescribed by law for making such settlements had not elapsed, and that no certificate for land so bought in by the state shall be rejected on account of an imperfect description of the land, when it shall appear that such imperfect description was made by the tax assessor.

APPROVED, February 8, 1858.

[No. 446.]

AN ACT

To compensate certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be, and he is hereby authorised and required to draw his warrants on the state treasurer for the following sums of money:

In favor of J. P. Stow, for the sum of forty-four dollars and fifteen cents, for furnishing the senate chamber with two stoves.

In favor of Martin Burton, for eighteen dollars and fifty cents, for making thirty-seven frames for illuminating the state capitol on the 8th of January, 1856.

In favor of W. B. Padgett, for one dollar and twenty-five cents, for servant hire on the 8th of January, 1856.

To be paid out of any money in the treasury not otherwise appropriated.

APPROVED, February 8, 1858.

[No. 447.]

AN ACT

To provide for the payment of certain claims against the State.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the following sums of money be, and the same are hereby appropriated to the payment of the following persons:

To Samuel F. Rice, for servant hire during the present session of the general assembly, two hundred and thirteen dollars.

To A. J. Walker, for servant hire during the present session of the general assembly, ninety dollars.

To W. C. Allen, for servant hire during the present session of the general assembly, ninety dollars.

SEC. 2. *Be it further enacted,* That the comptroller of public accounts be, and he is hereby authorised and required to draw his warrant on the state treasurer in favor of individuals named in this act, and for the amounts to which they are severally entitled.

APPROVED, February 8, 1858.

[No. 448.]

AN ACT

For the relief of Silas C. Dumas, tax collector of Wilcox county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts be authorised to settle with Silas C. Dumas, late tax collector of Wilcox county, in the same manner as if the returns of the said Dumas of insolvents, errors in assessments, and extra compensation to the assessor, under section 498 of the Code, had been made in the time prescribed by law.

APPROVED, February 2, 1858.

[No. 449.]

AN ACT

For the relief of J. C. Henderson, of Talladega county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts, be, and he is hereby directed to draw his warrant on the State treasurer, in favor of J. C. Henderson, of Talladega county, for the sum of twenty-five dollars, for arresting J. W. Pitman, charged with horse stealing.

APPROVED, February 8, 1858.

[No. 450.]

AN ACT

To compensate Isaac W. Pollard.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of two hundred and fifty dollars, be, and the same is hereby appropriated to Isaac W. Pollard, for making indexes to the final records of the supreme court of Alabama, from the year 1840 to the year 1849, inclusive, and that the comptroller be authorized to draw his warrant in favor of said Isaac W. Pollard, to be paid out of any money in the treasury not otherwise appropriated.

APPROVED, February 8, 1858.

[No. 451.]

AN ACT

For the relief of certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of public accounts, be, and he is hereby authorized and required, to draw his warrant upon the treasurer, in favor of Richard Prewit, William Alexander, F. Hodges, C. C. Gewin, A. P. Gallaway, J. N. Owen,

John Martin, and C. Gibson, for the sum of two hundred and sixty-three dollars and forty-four cents, to be paid out of any monies not otherwise appropriated: *Provided*, that all expenses that the State may have incurred by way of attorneys' fees, and otherwise, shall be deducted from the sum hereby appropriated, and the comptroller shall only draw his warrant for the balance.

APPROVED, February 8, 1858.

[No. 452.]

AN ACT

For the relief of certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the sum of eighty-nine dollars and forty-six cents, be, and the same is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay Joshua Lyon, for selling lands bought in by the State.

And that the sum of one hundred and twenty-four dollars and fifty-one cents, be, and the same is hereby appropriated to Alfred Robertson, clerk of the circuit court of Tuscaloosa county, for the payment of costs in a certain suit, at the instance of Henry W. Collier, governor, &c., vs. Samuel G. Frierson, *et al.*

And that the sum of thirty dollars, be, and the same is hereby appropriated, to pay Nacy K. Elkins, of Jackson county, for arresting Bryant Walker, on a charge of murder, who was convicted for the same.

And the sum of eight dollars, to pay Smith & Hughes, for printing handbills, by order of a joint committee of the General Assembly; and that the comptroller is hereby authorized to draw his warrant on the treasurer, in favor of the several persons named in this act, for the several amounts allowed by the provisions of this act.

APPROVED, January 27, 1858.

[No. 453.]

AN ACT

For the relief of William J. Mims, administrator, and George W. Zeigler, of Autauga county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That William J. Mims, administrator of the estate of Edward J. Zeigler, deceased, be, and he is hereby authorized, to make a final settlement with George W. Zeigler, a minor, of the guardianship of said George W. Zeigler, by said Edward J. Zeigler, deceased.

SEC. 2. *Be it further enacted,* That the said William J. Mims, administrator as aforesaid, be, and he is hereby authorized to deliver all such property, and pay over all money, in his possession as administrator aforesaid, belonging to said George W. Zeigler, and that the receipt of the latter shall relieve the said William J. Mims, administrator as aforesaid, from all further responsibility touching the custody of said property, or money: *Provided,* that said settlement shall be made before, and certified by, the probate judge of Autauga county.

SEC. 3. *Be it further enacted,* That the said George W. Zeigler, be, and he is hereby enabled to buy and sell real estate, of personal property, the same as if he were twenty-one years of age, and that all debts or other liabilities that he may contract, shall be as valid, and binding, as if he had attained his majority.

SEC. 4. *Be it further enacted,* That all laws and parts of laws contravening the provisions of this act, be and the same are hereby repealed.

APPROVED, January 20, 1858.

[No. 454.]

AN ACT

To compensate Y. L. Royston.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller be ordered to draw his warrant on the treasurer for seventy five dollars, in favor of Y. L.

Boyston, for monies to that amount paid by him, in order to the full prosecution of a criminal case, (State vs. Bristol,) in the circuit court of Bibb county.

APPROVED, February 8, 1858.

[No. 455.]

AN ACT

To authorize the South-Western Rail Road company to extend their rail road from the line of Georgia, at the town of Franklin, on the Chattahoochee river, to the city of Mobile, Alabama, and for other purposes herein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the South-Western Rail Road company, organized under an act of the General Assembly of the State of Georgia, with the acts amendatory or additional thereto, shall be allowed the privilege of making any necessary reconnaissance and survey through the counties of Henry, by way of the town of Abbeville; Dale, by the town of Newton; Coffee, by the way of the town of Elba; Covington, by the town of Andalusia; Conecuh, Baldwin and Mobile, for the purpose of ascertaining the most eligible route for extending said rail road to the city of Mobile.

Allowed privilege.

SEC 2. *Be it further enacted,* That as soon as the route and point at Mobile shall be ascertained, the said rail road company shall be allowed the right of way for the extension and construction of their said rail road, by the way of the towns and through the counties mentioned in the first section of this act; said rail road company giving a depot to each of said towns, otherwise shall be entitled to have all the rights, privileges, immunities, and powers, and subject to similar restrictions which are conferred upon the Savannah and Albany Rail Road company, by the act entitled "an act to authorize the Savannah and Albany Rail Road company to extend their rail road from the line of Georgia, on the Chattahoochee river, to the city of Mobile, Alabama, and to extend a branch rail road from Mufaula to Montgomery," approved December 20, 1853: *Provided,* That if said South-Western Rail Road company shall not accept the terms and conditions of this act, and commence

Right of way.

Proviso.

Rights and pri-
vileges.

Proviso.

the extension of the rail road herein contemplated within two years, then all the rights, privileges, and immunities herein contained in favor of said rail road company, shall cease as to said company, and shall vest in and be conferred upon A. J. McAlister, A. C. Gordon, J. W. Harper, H. E. Owens, P. B. Skipper, Abel Echols, James Ward, J. C. Matthews, A. A. Stallworth, J. H. Callaway, R. P. Brooks, James Larkins, Matthew Bronson, Lewis Hutchison, jr., G. T. Yelverton, Alfred Holley, William Harper, and such others as may be associated with them for said purpose, who shall, in that event, be a body corporate, with rights, powers, privileges and immunities equal to any other rail road company chartered by this State: *Provided*, That nothing herein contained, or that is contained in the acts of the legislature of the State of Georgia herein referred to, shall be so construed as to bind the State of Alabama, either directly or indirectly, in any pecuniary obligation of any kind or description whatever.

APPROVED, February 8, 1858.

[No. 456.]

AN ACT

To divorce certain persons therein named.

McGriff

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That in pursuance of a decree of the chancery court for the 11th district of the southern chancery division of the State of Alabama, at the November term, 1857, Mary McGriff be, and she is hereby divorced from her husband, Richard McGriff, and the said Mary may lawfully contract with and marry any other man.

Jenkins.

SEC. 2. *Be it further enacted*, That in pursuance of a decree from the chancery court for the 21st district of the middle division at the July term, 1856, James C. Jenkins be, and he is hereby divorced from Rebecca Jenkins, and that the said James C. Jenkins may lawfully contract with and marry any other woman.

APPROVED, February 5, 1858.

[No. 457.]

AN ACT

To divorce certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Ransom W. Echols be, and he is hereby divorced from his wife Adelia Echols, in pursuance to a decree of the chancery court for the 11th district of the southern division, made at the November term, 1857. Echols.

SEC. 2. *Be it further enacted,* That Sarah E. Hammer be, and she is hereby divorced from her husband, Harris A. Hammer, pursuant to a decree of the chancery court of the 13th district, middle division, made at the May term thereof, 1857. Hammer.

APPROVED, February 6, 1858.

[No. 458.]

AN ACT

To divorce certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That John C. Gaulman be, and he is hereby divorced from his wife Mary E. Gaulman; and James W. Johnson be, and he is hereby divorced from his wife Mary A. E. Johnson; and Thomas Williams from his wife, Eliza Williams; and Martha Scannuel be, and she is hereby divorced from her husband, William Scannuel, and Willis Spier from his wife, Julia A. Spier; pursuant to the decrees of the several chancery courts of this State. Divorced.

APPROVED, February 2, 1858.

[No. 459.]

AN ACT

To divorce Margaret E. Herd from her husband, Joseph M. Herd, and to divorce other persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the bonds of matrimony heretofore existing between Margaret E. Herd and her husband, Joseph M. Herd be, and the same are hereby dissolved, and that the said Margaret E. be, and she is hereby divorced from her said husband, pursuant to a decree of the chancery court of the 7th district of the southern division.

Herd.

SEC. 2. *Be it further enacted,* That the bonds of matrimony heretofore existing between Mary J. Thompson and her husband, Willis Thompson be, and the same are hereby dissolved, and that the said Mary J. be, and she is hereby divorced from her said husband Willis, pursuant to a decree of the chancery court of the 2d district, southern division.

Thompson.

SEC. 3. *Be it further enacted,* That George N. Perdue be, and he is hereby divorced from his wife, Mary E. Perdue, pursuant to a decree of the chancery court of the 37th district of the northern division.

Perdue.

APPROVED, February 6, 1858.

[No. 460.]

AN ACT

To divorce Reuben B. Franklin from his wife, Nancy Franklin, and to divorce other persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the bonds of matrimony heretofore existing between Reuben B. Franklin and his wife, Nancy Franklin be, and the same are hereby dissolved, and that the said Reuben B. be, and he is hereby divorced from his said wife, pursuant to a decree of the chancery court of the 15th district, southern division.

Franklin.

SEC. 2. *Be it further enacted,* That Eli Stopper be, and he is hereby divorced from his wife, Faitha C. Stopper, pur-

Stopper.

suant to a decree of the chancery court of the 10th district of the southern division.

SEC. 3. *Be it further enacted*, That William Bohannon be, and he is hereby divorced from his wife, Patsy Bohannon, pursuant to a decree of the chancery court of the 10th district, southern division.

Bohannon.

SEC. 4. *Be it further enacted*, That the bonds of matrimony heretofore existing between B. B. Forsyth, of the county of Russell, and his wife Mary A. Forsyth be, and the same are hereby dissolved, and that the said B. B. Forsyth be, and he is hereby divorced from his said wife Mary A., pursuant to a decree of the chancery court of the 11th district, middle division.

Forsyth.

SEC. 5. *Be it further enacted*, That the bonds of matrimony heretofore existing between James C. Stone, of the county of Randolph, and his wife Rebecca Stone be, and the same are hereby dissolved, and that the said James C. be, and he is hereby divorced from his wife Rebecca, pursuant to a decree of the chancery court of the 39th district of the northern division.

Stone.

SEC. 6. *Be it further enacted*, That the bonds of matrimony heretofore existing between David Williams and his wife, Abagale Williams be, and the same are hereby dissolved, and that the said David be, and he is hereby divorced from his wife Abagale, in pursuance of a decree of the chancery court of the 24th district, middle division.

Williams.

SEC. 7. *Be it further enacted*, That the bonds of matrimony heretofore existing between Joshua Cobb, of Benton county, and his wife Martha E. Cobb be, and the same are hereby dissolved, and that the said Joshua be, and he is hereby divorced from his said wife Martha, pursuant to a decree of the chancery court of the 36th district, northern division.

Cobb.

SEC. 8. *Be it further enacted*, That the bonds of matrimony heretofore existing between John D. Tullen and his wife, Sarah Tullen be, and the same are hereby dissolved, and that the said John D. be, and he is hereby divorced from his wife Sarah A., pursuant to a decree of the chancery court of the 1st district of the southern division.

Tullen

APPROVED, February 5, 1858.

[No. 461.]

AN ACT

To divorce Jeremiah Craft from his wife, Ruth Craft, and to divorce other persons therein named.

Craft. SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Jeremiah Craft be, and he is hereby divorced from his wife, Ruth Craft, pursuant to a decree of the 12th district, southern chancery division.

Money. SEC. 2. *Be it further enacted,* That Prudence Money be, and she is hereby divorced from her husband Jesse Money, in pursuance of a decree of the chancery court of the 33d chancery district of the northern division.

Marks. SEC. 3. *Be it further enacted,* That Emily B. Marks be, and she is hereby divorced from her husband Harvey B. Marks, in pursuance of a decree of the chancery court of the 1st district of the southern division.

Shehorn. SEC. 4. *Be it further enacted,* That Elizabeth L. Shehorn be, and she is hereby divorced from her husband, James M. Shehorn, in pursuance of a decree of the chancery court of the 33d chancery district, northern division.

McCrummon. SEC. 5. *Be it further enacted,* That Daniel McCrummon be, and he is hereby divorced from his wife, Mary Ann McCrummon, pursuant to a decree of the chancery court of the 12th district, southern division.

Gardner. SEC. 6. *Be it further enacted,* That Mary Gardner be, and she is hereby divorced from her husband, Thomas N. Gardner, and restored to her maiden name, Mary Ann Bailey, pursuant to a decree of the chancery court of the 14th chancery district of the middle division.

Wainright. SEC. 7. *Be it further enacted,* That Marie L. Wainright be, and she is hereby divorced from her husband, Cornelius A. Wainright, pursuant to a decree of the chancery court of the 12th chancery district of the southern division.

Walls. SEC. 8. *Be it further enacted,* That Margaret Walls be, and she is hereby divorced from her husband, Caleb M. Walls, pursuant to a decree of the chancery court of the 33d chancery district of the northern division.

Green. SEC. 9. *Be it further enacted,* That Noah J. Green be, and he is hereby divorced from his wife, Martha Green, pursuant to a decree of the chancery court of the 12th district, southern division.

Terry. SEC. 10. *Be it further enacted,* That Nancy Terry be, and she is hereby divorced from her husband William Terry,

pursuant to a decree of the chancery court of the 7th chancery district of the southern chancery division.

SEC. 11. *Be it further enacted*, That Isabella Abernathy be, and she is hereby divorced from her husband, Meredith B. Abernathy, pursuant to a decree of the chancery court of the 9th district of the southern division. Abernathy.

SEC. 12. *Be it further enacted*, That Isabella J. Cheatham be, and she is hereby divorced from her husband, Jephtha Cheatham, pursuant to a decree of the chancery court of the 36th district of the northern division. Cheatham.

SEC. 13. *Be it further enacted*, That Frances Jane Stover be, and she is hereby divorced from her husband, Edmund R. A. Stover, pursuant to a decree of the chancery court of the 27th district of the northern division. Stover.

SEC. 14. *Be it further enacted*, That Elizabeth McCurry be, and she is hereby divorced from her husband, Thomas McCurry, pursuant to a decree of the chancery court of the 36th district, northern division. McCurry.

SEC. 15. *And be it further enacted*, That William L. Goode be, and he is hereby divorced from his wife Emeline Goode, pursuant to a decree of the chancery court of the 21st district, middle division. Goode.

SEC. 16. *And be it further enacted*, That Lewis Houft be, and he is hereby divorced from his wife Mary W. Houft, pursuant to a decree of the chancery court of the 6th chancery district, southern division. Houft.

APPROVED, February 5, 1858.

[No. 462.]

AN ACT

To divorce Elizabeth Liles from her husband, Marion Liles, and to divorce eight other persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That Elizabeth Liles be, and she is hereby divorced from her husband, Marion Liles, pursuant to a decree of the chancery court of the thirty-ninth district of the northern chancery division. Liles.

SEC. 2. *Be it further enacted*, That Harriet W. E. Smedley be, and she is hereby divorced from her husband, Geo. Smedley.

W. Smedley, pursuant to a decree of the chancery court of the fifteenth district of the middle division.

Harville.

SEC. 3. *Be it further enacted*, That the bonds of matrimony heretofore existing between John A. Harvill and his wife, Sarah Harvill, be, and the same are hereby dissolved; and that the said John A. Harvill be, and he is hereby divorced from his said wife, pursuant to a decree of the chancery court of the twenty-seventh district of the northern division.

Cagle.

SEC. 4. *Be it further enacted*, That George Cagle be, and he is hereby divorced from his wife, Mary Cagle, pursuant to a decree of the chancery court of the thirty-fourth chancery district of the northern division.

Hood.

SEC. 5. *Be it further enacted*, That the bonds of matrimony heretofore existing between Sarah Lucinda Hood and her husband, James Hood, be, and the same are hereby dissolved; and the said Sarah L. be, and she is hereby divorced from her said husband, James, pursuant to a decree of the chancery court of the thirty-fourth district of the northern division.

Taylor.

SEC. 6. *Be it further enacted*, That the bonds of matrimony heretofore existing between Simeon P. Taylor and his wife, Florence Taylor, be, and the same are hereby dissolved; and that the said Simeon P. be, and he is hereby divorced from his wife, the said Florence, pursuant to a decree of the chancery court of the second district of the southern division.

Powell.

SEC. 7. *Be it further enacted*, That the bonds of matrimony heretofore existing between William L. Powell and his wife, Nancy Powell be, and the same are hereby dissolved; and that the said William L. be, and he is hereby divorced from the said Nancy, pursuant to a decree of the chancery court of the twenty-fourth district of the middle division.

Adams.

SEC. 8. *Be it further enacted*, That the bonds of matrimony heretofore existing between Lorenzo Adams and his wife, Martha Adams, be, and the same are hereby dissolved; and that the said Lorenzo be, and he is hereby divorced from his wife, the said Martha, pursuant to a decree of the chancery court of the twenty-fifth chancery district of the southern division.

Mason.

SEC. 9. *And be it further enacted*, That the bonds of matrimony heretofore existing between William Mason and his wife, Parmelia Mason, be, and the same are hereby dissolved; and that the said William be, and he is hereby di-

voiced from his wife, Parmelia, pursuant to a decree of the chancery court of the tenth district of the southern division.

APPROVED, February 6, 1858.

[No. 463.]

AN ACT

To divorce Elizabeth Elliott from her husband, Robert Elliott, and to divorce other persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in pursuance of decrees of the several chancery courts hereinafter mentioned, the bonds of matrimony heretofore solemnized and subsisting severally between the following named persons, be, and the same are hereby dissolved, and held for naught, viz:

1. That Elizabeth Elliott, be divorced from her husband, Robert Elliott, pursuant to a decree of the chancery court of the twenty-fifth district, northern division, of the State of Alabama. Elliott.

2. That Manoah Vaughn be divorced from his wife, Sarah Vaughn, in pursuance of a decree of the chancery court of the thirty-first district of the northern division. Vaughan.

3. That Elizabeth Morrell be divorced from her husband, John Morrell, in pursuance of a decree of the chancery court of the second district, southern chancery division. Morrell.

4. That Ann Turner be divorced from her husband, Edward B. Turner, pursuant to a decree of the chancery court of the twenty-second district of the middle chancery division. Turner.

5. That William F. Deshon be divorced from his wife, Eliza Deshon, pursuant to a decree of the chancery court of the second district of the southern chancery division. Deshon.

6. That James Sheffield be divorced from his wife, Lucinda Sheffield, pursuant to a decree of the chancery court of the second district, southern chancery division. Sheffield.

7. That Elizabeth T. Mosely be divorced from her husband, Middleton Mosely, pursuant to a decree of the chancery court of the seventeenth district of the middle chancery division. Mosely.

8. That Elizabeth Tucker be divorced from her husband,

Tucker.

William J. Tucker, pursuant to a decree of the chancery court of the thirtieth district of the northern chancery division.

Griffith.

9. That Celia Griffith be divorced from her husband, James A. Griffith, pursuant to a decree of the chancery court of the thirtieth district of the northern chancery division.

Blevins.

10. That John Blevins be divorced from his wife, Agnes Blevins, pursuant to a decree of the chancery court of the thirtieth district of the northern chancery division.

Ward.

11. That Mary Ann Ward be divorced from her husband, Levin S. Ward, pursuant to a decree of the chancery court of the nineteenth district of the middle division.

Stephens.

12. That Mary Stephens be divorced from her husband, Calvin Stephens, pursuant to a decree of the chancery court of the thirtieth district of the northern chancery division.

Jackson.

13. That Martha Jackson be divorced from her husband, William M. Jackson, pursuant to a decree of the chancery court of the thirtieth district of the northern division.

Hanbury.

14. That Rebecca J. Hanbury be divorced from her husband, Henry R. Hanbury, pursuant to a decree of the chancery court of the twenty-third district of the middle division.

Anderson.

15. That Jane E. Anderson be divorced from her husband, Joseph Anderson, pursuant to a decree of the chancery court of the twenty-sixth district of the northern division.

Brewer.

16. That William Brewer be divorced from his wife, Jane Brewer, pursuant to a decree of the chancery court of the twenty-fourth district, middle division.

Wood.

17. That Eliza Jane Wood be divorced from her husband, Calvin B. Wood, pursuant to a decree of the chancery court of the second district of the southern chancery division.

Freals.

18. That Frances J. Freals be divorced from her husband, William Freals, pursuant to a decree of the chancery court of the fourteenth district of the middle division.

Redwood.

19. That Mary B. Redwood be divorced from her husband, George E. Redwood, pursuant to a decree of the chancery court of the first district, southern chancery division.

Maples.

20. That Josiah J. Maples be divorced from his wife, Elizabeth Maples, pursuant to a decree of the chancery court of the twenty-third district, northern division.

Norwood.

21. That Caroline Norwood be divorced from her husband, Chaffell Norwood, pursuant to a decree of the chancery court of the twenty-eighth chancery district, northern division.

William J. Tucker, pursuant to a decree of the chancery court of the thirtieth district of the northern chancery division.

9. That Celia Griffith be divorced from her husband, James A. Griffith, pursuant to a decree of the chancery court of the thirtieth district of the northern chancery division.

10. That John Blevins be divorced from his wife, Agnes Blevins, pursuant to a decree of the chancery court of the thirtieth district of the northern chancery division.

11. That Mary Ann Ward be divorced from her husband, Levin S. Ward, pursuant to a decree of the chancery court of the nineteenth district of the middle division.

12. That Mary Stephens be divorced from her husband, Calvin Stephens, pursuant to a decree of the chancery court of the thirtieth district of the northern chancery division.

13. That Martha Jackson be divorced from her husband, William M. Jackson, pursuant to a decree of the chancery court of the thirtieth district of the northern division.

14. That Rebecca J. Hanbury be divorced from her husband, Henry R. Hanbury, pursuant to a decree of the chancery court of the twenty-third district of the middle division.

15. That Jane E. Anderson be divorced from her husband, Joseph Anderson, pursuant to a decree of the chancery court of the twenty-sixth district of the northern division.

16. That William Brewer be divorced from his wife, Jane Brewer, pursuant to a decree of the chancery court of the twenty-fourth district, middle division.

17. That Eliza Jane Wood be divorced from her husband, Calvin B. Wood, pursuant to a decree of the chancery court of the second district of the southern chancery division.

18. That Frances J. Freals be divorced from her husband, William Freals, pursuant to a decree of the chancery court of the fourteenth district of the middle division.

19. That Mary B. Redwood be divorced from her husband, George E. Redwood, pursuant to a decree of the chancery court of the first district, southern chancery division.

20. That Josiah J. Maples be divorced from his wife, Elizabeth Maples, pursuant to a decree of the chancery court of the twenty-third district, northern division.

21. That Caroline Norwood be divorced from her husband, Chaffell Norwood, pursuant to a decree of the chancery court of the twenty-eighth chancery district, northern division.

[No. 466.]

AN ACT

To divorce Lewis King from his wife, M. J. King.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That Lewis King be, and he is hereby divorced from his wife, M. J. King, pursuant to a decree of the chancery court of the thirty-seventh chancery district, northern chancery division of the State of Alabama.

King.

APPROVED, December 2, 1857.

[No. 467.]

AN ACT

To divorce certain persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in pursuance of the decrees of the different chancery courts of this State, hereinafter referred to, the bonds of matrimony heretofore solemnized and subsisting between the following named persons, be, and the same are hereby dissolved, and held for naught:

1. That Eliza Osborn be divorced from her husband, Francis Osborn, in pursuance to a decree of the chancery court of the eleventh district of the middle division of the State of Alabama, at the May term, 1857.

Osborn.

2. That Martha Dejarnett be divorced from her husband, Stokes Dejarnett, in pursuance to a decree of the chancery court of the fifteenth chancery district of the middle division of the State of Alabama, at the November term, 1857.

Dejarnett.

3. That Rebecca E. Brown be divorced from her husband, John Brown, in pursuance to a decree of the chancery court of the eleventh district of the middle division of the State of Alabama, at the November term, 1857.

Brown.

4. That Jane Woodward be divorced from her husband, Robert N. Woodward, in pursuance to a decree of the chancery court of the twenty-first district of the middle division of the State of Alabama, at the July term, 1857.

Woodward.

APPROVED, February 5, 1858.

[No. 468.]

AN ACT

To divorce Sarah A. Eustis from her husband, Joseph G. Eustis, and to divorce other persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the bonds of matrimony heretofore subsisting between Sarah A. Eustis and her husband, Joseph G. Eustis, be, and the same are hereby dissolved, and that the said Sarah A. Eustis be, and she is hereby divorced from her said husband, pursuant to a decree of the chancery court of the thirty-third district of the northern division. Eustice.

SEC. 2. *Be it further enacted,* That Martha Ann Crow, be, and she is hereby divorced from her husband John H. Crow, pursuant to a decree of the chancery court of the first chancery district of the southern division. Crow.

SEC. 3. *Be it further enacted,* That Martha E. Carithers be, and she is hereby divorced from her husband, William D. Carithers, in pursuance of a decree of the chancery court of the twelfth district of the middle chancery division. Carithers.

SEC. 4. *Be it further enacted,* That Cynthia J. Ragan be, and she is hereby divorced from her husband, Joseph K. Ragan, in pursuance of a decree of the chancery court of the thirteenth chancery district of the middle chancery division. Ragan.

APPROVED, February 5, 1858.

[No. 469.]

AN ACT

To divorce Harriet H. Burgess from her husband, James L. Burgess, and other persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the bonds of matrimony heretofore existing between Harriet H. Burgess, of the county of Coosa, and her husband, James L. Burgess, be, and the same are hereby dissolved, and the said Harriet H. be, and she is hereby divorced from the said James L., in pursuance to a decree of the chancery court of the fifteenth district of the middle division. Burgess.

Shaw.

SEC. 2. *Be it further enacted*, That William L. Shaw, be, and he is hereby divorced from his wife, Ann E. Shaw, pursuant to a decree of the chancery court of the fifteenth district of the middle division.

APPROVED, February 5, 1858.

[No. 470.]

AN ACT

To divorce Nancy H. Allen from her husband, Julius Allen, and to divorce other persons therein named.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That in pursuance of the decrees of the several courts of chancery hereinafter mentioned, the bonds of matrimony heretofore subsisting and hereinafter mentioned severally between the following named persons be, and the same are hereby dissolved and held for naught, viz:

Allen.

1. That Nancey H. Allen be, and she is hereby divorced from her husband, Julius Allen, pursuant to a decree of the chancery court of the 9th district of the southern division.

Burgess.

2. That Pastain Burgess be, and he is hereby divorced from his wife, Emiline Burgess, pursuant to a decree of the chancery court of the 25th district of the northern division.

Robertson.

3. That Matilda H. Robertson be, and she is hereby divorced from her husband, George W. Robertson, pursuant to a decree of the chancery court of the thirteenth district of the middle division.

Cooper.

4. That Roland Cooper be, and he is hereby divorced from his wife, Marger (alias Margaret) Cooper, pursuant to a decree of the chancery court of the thirty-eighth district of the northern division.

Underwood.

5. That William Underwood be, and he is hereby divorced from his wife, Martha A. Underwood, pursuant to a decree of the chancery court of the eleventh district of the middle division.

Mills.

6. That Elizabeth Mills be, and she is hereby divorced from her husband, James M. Mills, pursuant to a decree of the chancery court of the twenty-third district of the middle division.

7. That Adaline Robbins be, and she is hereby divorced from her husband, Alfred Robbins, pursuant to a decree of the chancery court of the thirty-ninth district of the northern division. Robbins.

8. That James Evans be, and he is hereby divorced from his wife, Margaret Evans, pursuant to a decree of the chancery court of the first district of the southern division. Evans.

9. That Margaret Crearfreau be, and she is hereby divorced from her husband, Joseph Crearfreau, pursuant to a decree of the chancery court of the first district of the southern division. Crearfreau.

10. That Wright H. Ghaskins be, and he is hereby divorced from his wife, Margaret Ghaskins, pursuant to a decree of the chancery court of the seventh district of the southern division. Ghaskins.

11. That Tabitha E. Butts be, and she is hereby divorced from her husband, Jacob J. Butts, pursuant to a decree of the chancery court of the twenty-sixth district of the northern division. Butts.

12. That Jesse A. Ivy be, and he is hereby divorced from his wife, Teresa A. Ivy, pursuant to a decree of the chancery court of the twentieth district of the middle division. Ivy.

13. That Adaline Harrington be, and she is hereby divorced from her husband, Redding Harrington, pursuant to a decree of the chancery court of the first district of the southern division. Harrington.

14. That Annie H. Hunter be, and she is hereby divorced from her husband, William H. Hunter, pursuant to a decree of the chancery court of the first district of the southern division. Hunter.

15. That Andrew Poore be, and he is hereby divorced from his wife, Priscilla D. Poore, pursuant to a decree of the chancery court of the thirty-fifth district of the southern division. Poore.

16. That Sarah Perkins be, and she is hereby divorced from her husband, W. C. Perkins, pursuant to a decree of the chancery court of the first district of the southern division. Perkins.

17. That Eliza Adrien be, and she is hereby divorced from her husband, Thomas W. Adrien, pursuant to a decree of the chancery court of the first district of the southern division. Adrien.

APPROVED, February 5, 1858.

[No. 471.]

AN ACT

- To refund to the commissioners of free public schools for the county of Marshall a certain amount of money, paid out of the interest arising out of the sixteenth section fund belonging to township nine, range two, east, in the county of Marshall.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the sum of one hundred and forty-one dollars be, and the same is hereby appropriated to pay the superintendant of education for that sum paid by him to the commissioners of free public schools in the county of Marshall, that amount having been appropriated out of the interest arising out of the sixteenth section fund belonging to township nine, range two, east, in said county, for costs incurred by the State of Alabama in sundry suits had in said courts on the sixteenth section notes; said act approved February 14th, 1856.

SEC. 2. *Be it further enacted,* That the comptroller draw his warrant for the sum of one hundred and forty-one dollars in favor of the superintendant, to be paid out of any money in the treasury not otherwise appropriated; and the said sum is to be paid into the hands of the said superintendant for the benefit of the said sixteenth section mentioned in the first section of this bill.

APPROVED, February 8, 1858.

[No. 472.]

AN ACT

- For the relief of purchasers of fractional township twenty, range two, in the Coosa land district.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the comptroller of the State of Alabama be, and he is hereby authorised and required to draw his warrant upon the treasurer of the State in favor of the purchasers of the land sold as school lands in fractional township twenty, range two, in the Coosa land district, or in favor of their assignees, or those who have

for such sum or sums of money as they may have paid to the State of Alabama on account of the purchase of said lands, together with the interest thereon since its payment, at the rate of six per cent. per annum; principal and interest to be paid out of the funds belonging to said township; such warrants to be drawn in favor of the persons respectively entitled.

SEC. 2. *Be it further enacted*, That if any patent or patents have issued to any person or persons for said lands or any portion thereof, that no money which may have been paid on account of the purchase thereof shall be refunded until such patent shall be returned to the State.

APPROVED, February 8, 1858.

[No. 473.]

AN ACT

For the relief of township seventeen, range twenty-nine, in Russell county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the superintendant of education be, and he is hereby authorised and required to transfer to the credit of township seventeen, range twenty-nine, in Russell county, all sums of money which he may ascertain to have been paid into the branch of the bank of the State of Alabama at Montgomery by the purchasers of school lands of said township, and erroneously entered in said bank to the credit of township eighteen, range twenty-seven.

SEC. 2. *And be it further enacted*, That the comptroller of public accounts be authorised and required to draw his warrant on the State treasurer, payable to the order of the trustees of said township seventeen, range twenty-nine, for whatever amount of interest he, in connection with the superintendant, may ascertain said township to have been deprived of by the erroneous entry referred to.

APPROVED, February 8, 1858.

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JOINT RESOLUTIONS AND MEMORIALS.

JOINT RESOLUTIONS

Proposing to amend article 4, section 23, of the Constitution, so as to elect the comptroller and treasurer biennially.

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the following amendment to the Constitution of Alabama is hereby proposed to the people thereof, which, when proposed by two-thirds of each house of the present General Assembly, voted in favor of by a majority of all the citizens of this State voting for representatives, and ratified by two-thirds of each house of the next General Assembly voting thereon, by yeas and nays, shall be valid to all intents and purposes as part of the Constitution of said State; *Provided,* That said proposed amendment shall, at each of the said sessions, have been read three times on three several days in each house: Strike out of the 23d section of the 4th article of the Constitution the word "annually," and insert in lieu thereof the word "biennially."

SEC. 2. *Be it further resolved,* That all the provisions of chapter seven, title six, part one, of the Code of Alabama, shall be observed by the officers therein named, in the election to be held on this proposed amendment to the Constitution, and all the penalties designated in chapter eight of said title, shall be enforced against all persons amenable thereto or any act of omission or commission relating to the matter herein contained.

SEC. 3. *Be it further resolved,* That the secretary of state shall cause these joint resolutions and proposed amendment to the Constitution to be published at least three months before the next general election, in one newspaper published in the following places, to wit: Montgomery, Mobile, Tuskaloosa, Huntsville, Eufaula, Jacksonville, Florence and Selma.

APPROVED, February 8, 1858.

JOINT RESOLUTIONS

Providing for the call of a convention in case Kansas is refused admission into the Union.

WHEREAS, The people of Alabama, of all political parties, in their primary assemblies and party conventions, have heretofore announced the following as among the fundamental principles of their political creed:

That Alabama, in their judgment, will and ought to resist, even, as a last resort, to a disruption of every tie which binds her to the Union, any action of Congress upon the subject of slavery in the District of Columbia, or in places subject to the jurisdiction of Congress, incompatible to the safety, domestic tranquility, the rights and honor of the slaveholding States, or any act suppressing the slave trade between the slaveholding States, or any refusal to admit as a State any territory hereafter applying *because of the existence of slavery therein*, or any act prohibiting the introduction of slavery into the territories of Utah or New Mexico, or any act repealing or materially modifying the laws now in force for the recovery of fugitive slaves; AND WHEREAS, The Federal Constitution as well as the Kansas-Nebraska act, plainly guaranteed to the *bona fide* inhabitants of the territory of Kansas, when their number was sufficient, the right to meet in a convention, composed either of the people themselves or of delegates chosen by them, and, when thus assembled, to frame a constitution, with or without slavery, as to them might seem proper, and with a constitution thus framed, to demand an unqualified admission into the Union as a State; AND WHEREAS, Kansas has exercised this plain constitutional right, and is expected to ask for admission into the Union, and the refusal by Congress to receive her would be a plain violation of this great constitutional right and of the principles herein set forth, to the maintenance of which Alabama has been so often and so solemnly pledged, Therefore, while this General Assembly will not assume in advance to dictate the course to be taken by the State of Alabama in the event Kansas shall be refused admission into the Union, nevertheless, feel constrained by a high sense of duty, in the firm conviction that she will redeem her pledges and take no step backwards, to provide the means by which her people, in convention assembled, may determine their course of action. Therefore,

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That in the event Kansas shall apply at the present or any future session of Congress, for admission into the Union as a State, with and under the constitution heretofore framed and adopted by her, and commonly known as the "Lecompton constitution," and shall be by Congress refused admission.

the Governor of this State is hereby respectfully instructed by proclamation to assemble the qualified voters of this State at the several places of voting in their respective counties, to elect delegates to a State convention, on a day to be by him appointed, within ninety days from the time when he shall receive satisfactory evidence of such action by Congress.

SEC. 2. *Be it further resolved*, That the Governor shall by his proclamation fix a day for the holding of a convention, at the capitol of the State, not later than twenty days after the day fixed for such election.

SEC. 3. *Be it further resolved*, That it shall be the duty of the Governor to issue to the sheriffs of the several counties writs of election for as many delegates from each county to said convention, as the said several counties shall be entitled to members in the house of representatives of the General Assembly; and said election shall be held at the usual places of voting in the respective counties, and the polls shall be opened under the rules and regulations now governing the election of members of the General Assembly of this State, and said election shall be governed in all respects by the laws then in existence, regulating the election of members to the House of Representatives in the General Assembly, and the persons elected thereat as delegates to said convention shall be returned in like manner.

SEC. 4. *And be it further resolved*, That copies of the foregoing preamble and resolutions be forwarded to our senators and representatives in Congress, and to the Governors of all our sister States of the South.

APPROVED, January 22, 1858.

JOINT RESOLUTIONS

Proposing amendments to the Constitution.

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the following amendments to the Constitution of Alabama are hereby proposed to the people thereof, which, when proposed by two thirds of each House of the present General Assembly, voted in favor of by a majority of all the citizens of this State voting for representatives, and ratified by two-thirds of each House of the next General Assembly voting thereon, by yeas and nays, shall be valid to all intents and purposes as part of the Constitution of said State; *Provided*, That said proposed amendments shall, at each session, have been read three times on three several days in each House, to-wit:

1. Strike out the third section of the third article, and the amend-

ments thereto, as ratified by the General Assembly of the State of Alabama, at the session held on the first Monday in December, 1845, and in the place of said section and said amendment thereto, insert the following: "The representatives shall be chosen biennially, and the election shall take place on the first Monday and the day following in August, until otherwise directed by law."

2. Strike out the words "three years," in the twelfth section of the third article, and in place thereof insert "four years."

3. Strike out the fourteenth section of the third article, and the amendment thereto, as ratified by the General Assembly of the State of the State of Alabama, at the session held on the first Monday in December, 1845, and in place thereof, insert the following section: "The General Assembly shall hold annual sessions at times to be fixed by law. The House of Representatives shall at each session choose a speaker and its other officers, and the Senate, a president and its other officers; each House shall judge of the qualifications, elections and returns of its own members, but a contested election shall be determined in such manner as may be directed by law."

4. Strike out the words "biennial," in the amendment to the eighth section of the fourth article, as ratified by the General Assembly of the State of Alabama, at the session held on the first Monday in December, 1845, and insert in place thereof the word "annual."

SEC. 2. *Be it further resolved*, That all the provisions of chapter seven, title six, part one, of the Code of Alabama, shall be observed by the officers therein named, in the election to be held on these proposed amendments to the Constitution, and all the penalties designated in chapter eight of said title, shall be enforced against all persons amenable thereto, for any act of omission or commission relating to the matter herein contained.

SEC. 3. *Be it further resolved*, That the secretary of state shall cause joint resolutions and proposed amendments to the Constitution to be published at least three months before the next general election, in one newspaper published in each of the following places, to wit: Montgomery, Mobile, Tuskaloosa, Huntsville, Eufaula, Jacksonville, Florence, Selma and Talladega.

APPROVED, February 8, 1858.

JOINT RESOLUTION

Declining to accept a certain portion of the grant, and carry into execution the trust conferred upon the State of Alabama, by an act of Congress entitled "an act granting public lands in alternate sections, to the State of Alabama to aid in the construction of certain railroads in said State, approved, June 3d, 1856.

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That so much of the lands granted to, and the rights and privileges conferred upon the State of Alabama, by the terms of an act of Congress entitled an act granting public lands in alternate sections to the State of Alabama, to aid in the construction of a railroad extending from Memphis, on the Mississippi river, in Tennessee, to Stevenson, on the Nashville and Chattanooga railroad, in Alabama, designated in said act, "the Memphis and Charleston railroad, approved June third, one thousand eight hundred and and fifty-six, (June 3d, 1856,) be, and the same are hereby declined, the president and directors of said railroad having officially refused to accept the same, and notified the Governor of this State thereof.

APPROVED, January 20, 1858.

JOINT RESOLUTION

In relation to the Commercial Bank, and the Central Bank, of Alabama.

SECTION 1. *Resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That instructions be, and are hereby given to the attorney-general, and the solicitor of the second judicial circuit, who have received instructions from the governor, to proceed against the Commercial Bank, at Selma, and the Central Bank, at Montgomery, as required by section 938 of the Code, that all such proceedings shall be stayed, or withheld, until further action and instruction by the General Assembly, or until further instructions from the Governor, after the adjournment thereof: *Provided,* That nothing herein contained shall operate to waive, or impair, any right, remedy, or lien, on the part of the State, against said banks, further than is clearly intended by this act.

APPROVED, December 2, 1857.

JOINT RESOLUTION

In regard to the Honorable Benjamin Fitzpatrick and the Honorable C. C. Clay, Senators in Congress.

Resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the people of Alabama have witnessed, with pride and gratification, the course pursued by Hon. Benjamin Fitzpatrick and the Hon. Clement C. Clay, their Senators in the Congress of the United States, upon all questions which have arisen in the federal legislature, since their connection therewith, and that, as the representatives of the people, this General Assembly do heartily endorse the course of their said Senators.

APPROVED, December 2, 1857.

JOINT RESOLUTION

To illuminate the Capitol on the eighth of January, 1858.

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the door-keepers of the two houses, be, and they are hereby required to illuminate the capitol, on the evening of the eighth of January next, from six o'clock, p. m., until twelve o'clock, p. m., of that day; and that a sufficient amount of money, be, and is hereby appropriated to discharge the expense of said illumination.*

APPROVED, January 9, 1858.

JOINT RESOLUTIONS

Designating the application of certain lands granted by Congress to the State of Alabama.

WHEREAS, The Congress of the United States, by a certain act approved the 3d day of June 1856, made a grant of public lands to the State of Alabama, to aid in the construction of the North-east and South-west Rail Road from near Gadsden to some point on the Alabama and Mississippi State line in the direction of the Mobile and Ohio

Rail Road, with a view to connect with said Mobile and Ohio Rail Road: AND WHEREAS, It is provided in said act that the lands thereby granted to said State for the purposes of constructing a rail road from the north-east to the south-western portion of said State, lying south-west of Elyton, shall be assigned to such road as may be designated by the legislature of said State. Therefore—

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That in pursuance of the power in them vested by said act, they hereby designate the North-east and South-west Alabama Rail Road, running south-west from Elyton, by way of Tuskaloosa, Eutaw and Livingston, and connecting with the Mobile and Ohio Rail Road at Maridian, as the road to which the lands granted by said act, lying south-west of Elyton, shall be assigned; and to aid in the construction of which, said lands shall be held under the provisions of the act of Congress aforesaid.

SEC. 2. *Be it further resolved,* That the lands, rights, and privileges, granted to and conferred upon the State of Alabama, to aid in the construction of certain rail roads, by the act of Congress aforesaid, be and the same are hereby accepted upon the terms, conditions, and restrictions therein provided.

SEC. 3. *Be it further resolved,* That so much of the said lands, interest, rights, and privileges, as are or may be granted and conferred, in pursuance of said act of Congress, to aid in the construction of the North-east and South-western Rail Road, from near Gadsden to some point on the Alabama and Mississippi State line, in the direction to the Mobile and Ohio Rail Road, with a view to connect with the said Mobile and Ohio Rail Road, are hereby disposed of, granted to, and conferred upon the North-east and South-west Alabama Rail Road company, a body corporate existing under the laws of the State of Alabama, to be used and applied by said company upon the terms, conditions, and restrictions, in said act of Congress contained.

SEC 4. *Be it further resolved,* That so much of the said lands, interest, rights, and powers, and privileges, as are or may be granted and conferred, in pursuance of the said act of Congress, to aid in the construction of a rail road from Gadsden to connect with the Georgia and Tennessee line of rail roads through Chattooga, Wills' and Lookout valleys, are hereby disposed of, granted to, and conferred upon the Wills' Valley Rail Road company, a body corporate existing under the laws of the State of Alabama, to be used and applied by said company upon the terms, conditions, and under the restrictions in said act of Congress contained: *Provided,* That nothing in these joint resolutions contained, nor the passage and approval of the same, first in point of time, shall be construed to give the road to which the land is hereby appropriated, any preference where its claims to lands comes in conflict with the claims of any other road provided for in said act of Congress.

APPROVED, January 30, 1858.

JOINT RESOLUTIONS

In regard to the cession of West Florida.

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the State of Alabama proposes to the State of Florida that the said State of Florida shall cede to the State of Alabama all that portion of Florida lying west of the Chattahoochee and Apalachicola rivers, so that when Congress gives the proper sanction to said cession, the said portion of Florida shall be a part of the said State of Alabama.

SEC. 2. *And be it further resolved,* That the Governor of this State be empowered, and he is hereby authorized to appoint a commissioner to wait on the Governor of Florida, and the legislature of said State, at its next regular session, and lay before them copies of these resolutions.

APPROVED, February 8, 1858.

JOINT RESOLUTION

Requesting that Lieutenant Maury, of the United States navy, be restored to his former standing in the navy.

AMONG those whose eminent services have been most beneficial to mankind, stands foremost that of Lieutenant Maury, of the United States navy. The great practical mind that, by close observation and knowledge of the winds of heaven and the currents of the ocean, has given such direction to the commerce of nations as to lessen time, increase safety, and add the value of millions; that has so acquainted itself with the storm as to disarm it of its terrors, and direct the course of safety to thousands, surely requires, in some way, our acknowledgments. Such services entitle him to the thanks of a benefitted world. There seems a propriety that those who have been its recipients should, in some way, express it; therefore—

Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That our senators and representatives in Congress be requested to say to the President of the United States, that it would be acceptable to this General Assembly to see Lieutenant Maury advanced to that high rank and position in the navy to which his distinguished services entitle him.

APPROVED, January 19, 1858.

JOINT RESOLUTION

Extending the provisions of joint resolutions approved January 3, 1858, in reference to the settlement of the account of the late secretary of state, Vincent M. Benham, to the present incumbent, James H. Weaver.

Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the provisions of the joint resolutions approved February 3, 1858, in relation to the settlement of the account of the late secretary of state, Vincent M. Benham, be and the same are hereby extended to any such settlement with the present incumbent, James H. Weaver.

APPROVED, February 3, 1858.

JOINT RESOLUTIONS

In reference to the settlement of the account between the State of Alabama and the late secretary of state, Vincent M. Benham.

Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the comptroller, in adjusting and settling the account of the State with Vincent M. Benham, late secretary of state, be authorized and required to allow said Benham, and credit him with the amount of commissions on the sale of books made by him for the State, at the rate of ten *per centum* on the aggregate amount collected by him from such sales.

Be it further resolved, That upon said Benham producing the necessary proof to establish the account, the comptroller shall pay to him forty dollars for books bought by him for the use of the county of Coffee.

APPROVED, February 3, 1858.

JOINT RESOLUTIONS

Reported by the committee on federal relations in relation to Kansas affairs.

Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That Robert J. Walker, the Governor of Kansas, has plainly, palpably and dangerously violated the principle of non-intervention contained in the "Kansas bill :"

First—By taking sides in his inaugural address against the introduction of domestic slavery into that territory, and enforcing his views by an argument, thus abandoning at the very outset of his administration the rectitude and impartiality which befitted his station, and upon which every section of the union had a right to insist, and throwing the weight of his official influence against the rights and interests of the southern States.

Secondly—In undertaking to serve the cause of freesoil, which he had thus officially espoused, by proclaiming that the constitution of Kansas after being adopted, should be submitted for ratification, and by prescribing the class of voters to whom only it should be so submitted, when the people of Kansas, acting through their legally appointed convention, alone had the right to settle these questions for themselves.

Thirdly—In assuming without authority of law to interfere with the returns of the late elections, and thus by a naked usurpation changing its result, and giving the ascendancy in both legislative houses to the party of fanaticism over the party of the constitution; that for these unjustifiable and flagitious acts, Robert J. Walker deserves and receives the unqualified condemnation of the State of Alabama.

2. *Resolved*, That the people of Alabama profoundly regret the failure of the administration to remove Governor Walker, and are wholly unable, upon the facts now in their possession, to reconcile such failure with fidelity to the principle of non-intervention embraced in the Kansas bill; but, from extreme reluctance to believe, even upon such evidence, that an administration elevated to power by the votes of fourteen southern States, can present so flagrant an example of bad faith as an endorsement of the course of Governor Walker would exhibit, they forbear expressing any censure or condemnation in advance of the opportunity afforded the President, by the approaching meeting of Congress, to explain the causes of his apparent continued acquiescence in the atrocious policy of the Governor of Kansas.

2. *Resolved*, That the State of Alabama recognizes, and in common with her sister States of the South, will maintain to the last extremity the rights of the people of Kansas, acting through their legally appointed convention, in spite of interference or dictation from any quarter, to adopt a constitution with or without submitting the same for subsequent ratification, as in their judgment may be proper, and to be

admitted into the Union as a State with such constitution as so adopted upon the sole condition that it is in its form *republican*.

4. *Resolved*, That a copy of these resolutions be forwarded to each of the senators and representatives of the State of Alabama in the Congress of the United States.

APPROVED, December 4, 1857.

JOINT RESOLUTION

More effectually to provide for the payment of State bonds due in London, in January next.

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That John Whiting, commissioner and trustee to settle the affairs of the State bank and branches, be, and he is hereby authorized to take such steps as he may deem best, to meet the engagements of the State of Alabama, and for that purpose, he is hereby vested with authority to hypothecate the Virginia and North Carolina bonds, should he think proper to do so.

APPROVED, December 9, 1857.

JOINT RESOLUTION

To provide for the inaugural expenses.

Resolved, by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the Governor be, and he is hereby authorised to certify to the comptroller, who shall draw his warrant on the treasurer, in favor of any person or persons, for expenses incurred by the committee on occasion of the late inaugural ceremonies: *Provided*, That said sums be appropriated out of the contingent fund: *And provided further*, That no such account be certified by the Governor, except the same be fully proved to his satisfaction by affidavit of the correctness of said account, and of the reasonableness thereof.

APPROVED, February 8, 1858.

JOINT RESOLUTION

Authorising the Governor to receive that portion of the Geological Report which has been printed.

SECTION 1. *Be it resolved by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That the Governor of the State be, and he is hereby authorised and required to inquire into and settle the account of Bates & Lucas, late State printers, or the survivor or proper representative of either of them, for printing done on the geological report of M. Tuomey, late geologist of the State; that in making up and stating the account of said Bates & Lucas, the Governor shall take into consideration any damage to the State from delay, loss of manuscript, or otherwise, and shall scale or reduce the account accordingly; or, if he shall consider that justice and the interest of the State require it, he shall order the necessary proceedings on the bond of said Bates & Lucas, as public printers, to enforce its penalties.

APPROVED, February 8, 1858.

JOINT MEMORIAL

To the Congress of the United States.

The memorial of the General Assembly of the State of Alabama respectfully represents: That there are within our borders inexhaustible fields of bituminous coal found, by actual experiment, to be equal to any known in the United States for fuel, generating steam, the manufacture of iron, and other purposes for which bituminous coal is used. In juxtaposition, may be found lime rock, also, iron ore, to an indefinite extent, unsurpassed for its yield, and the finest of the iron made therefrom, and all crowned by a virgin forest.

These mines, commencing at their southern point, on the Alabama and Tennessee Rivers Railroad, stretch away, through the counties of Shelby and Jefferson, and other counties, over a vast extent of the State, underlying a large portion of the public lands within its limits. Water power is abundant, and the country noted for its healthfulness. One terminus of the above named railroad rests upon the Alabama river by which means they are brought into immediate proximity with the bay of Mobile, and the gulf of Mexico. There is, also, a railroad from the capital of the State to Pensacola, in progress, with every prospect of a speedy completion, and this General Assembly looks forward to the not distant period, when a road will be extended through the

very heart of this region, which may well challenge comparison with any portion of our country for its mineral wealth.

From these facts, and from the fact that the coast of the gulf of Mexico is in a more exposed condition than any portion of the United States coast, and has not received as much attention from the government as we think it deserves, we would respectfully call the attention of Congress to the importance of establishing an armory at some point, as above indicated, for manufacturing cannon, and arms, suitable for the equipment of troops in the United States service, and from the easy access to Mobile, New Orleans, and Galveston, to any arrangement which may be deemed advisable, for the establishment of a coal depot for the supply of war and mail steamers.

Resolved, That our senators and representatives in Congress be requested to urge this matter, at least, if possible, to obtain an examination by the government, and that a copy hereof be sent to each of them, by the Governor of this State.

APPROVED, January 19, 1858.

JOINT MEMORIAL

To the Congress of the United States, asking that the city of Montgomery be made a port of entry and clearance, and for an appropriation for the erection of custom house, United States court room, land office, and post office.

To the Senate and House of Representatives of the United States in Congress assembled: The memorial of the Senate and House of Representatives of the State of Alabama in General Assembly convened, respectfully represents, That one railroad is already under construction from the city of Montgomery, in said State to the city of Pensacola, in the State of Florida, and that several other railroad charters have been granted to continue, or construct, railroads leading from said city of Montgomery.

They further represent, That said city is the outlet, and commercial depot of an extensive, fertile, and populous region of country; that it is also the point at which the emigration from Virginia, North and South Carolina, Georgia, and a portion of Tennessee, meet, in the transit to Mississippi, Louisiana, and Texas; and that large and increasing quantities of railroad iron, as well as considerable amounts of foreign manufactured goods, are distributed at this point. That those works of internal improvement would be advanced and facilitated, if the iron required in their construction, which, imported through the Atlantic and

Gulf ports, would be bonded and stored at Montgomery, and that the convenience of emigrants from this and other States, would be promoted by the clearance of their slaves at this point. They therefore respectfully ask, that said city of Montgomery may be made a port of entry and clearance, and that a custom house be there established.

They further represent, That the convenience of the public would be advanced, by the erection of a suitable building, or buildings, for a United States court, land office, and post office, and they pray that appropriations be made by your honorable bodies for these purposes.

APPROVED, January 20, 1858.

JOINT MEMORIAL.

To congress for a grant of lands to the Selma and Gulf Rail Road company.

To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled, Your memorialists, the senate and house of representatives of the State of Alabama in general assembly convened, respectfully show unto your honorable bodies that they have, during their present session, granted a charter to a company proposed to be formed under the name of the Selma and Gulf Rail Road company, for the purpose of constructing a rail road from the city of Selma, in this State, in the direction of the Gulf of Mexico. The proposed route of said rail road passes through portions of the counties of Dallas, Wilcox, Monroe, and Conecuh, in this State, in a southerly direction from the said city of Selma, and is about seventy-five miles in length. It is the purpose of the projectors of the proposed railroad, to connect with a rail road, in course of construction, from the city of Pensacola, Florida, in the direction of the said city of Selma, on the one hand, and on the other hand, with a rail road from the city of Mobile, in the same direction, which a portion of the citizens of the latter city have in contemplation to construct. A company has been engaged, for several years past, in constructing a rail road in a north-easterly direction from Selma, (on the Alabama river) the proposed terminus of which is upon the Tennessee river. Between ninety and a hundred miles of this road has been completed and is in operation, and the work is progressing toward completion. There is every reason to believe that this road will have connections, in the course of a few years, not only with the Tennessee river, but with the rail roads of east and west Tennessee, and northern Georgia. With these connections, and with an extension southward from Selma, as proposed, to

Mobile on the one hand, and Pensacola on the other, so as to form a continuous line of rail road from the system of roads in east and west Tennessee and northern Georgia, as well as from the Tennessee river to the Gulf ports above mentioned, a work of great national importance will be accomplished. The rail road above mentioned, running north-eastward from Selma, penetrates or passes very near the rich and extensive coal fields of Shelby county, in this State, as well as extensive deposits of rich and very superior iron ore, and inexhaustable quarries of lime stone of the purest quality. Considerable quantities of coal from the coal fields above mentioned are now being shipped over this rail road to Selma, and thence by river to Mobile; but a rail road from Selma to the Gulf ports, as proposed, is indispensable to a full development of the business. With such a road the government could be readily and cheaply supplied with all the lime which may be required in the construction of public works in the Gulf ports, and with any quantity of superior coal which may be required for the navy; and not only so, but by the completion of the system of rail roads referred to, of which the proposed road is an indispensable part, an unbroken and continuous line of rail way would be established from the seat of government and far beyond, to the ports upon the Gulf; whereby, not only the greatest facilities for convenient and rapid intercommunication would be afforded, but the very best means would be afforded to the government for the transportation of its mails, treasures, and munitions, from one extremity of the Union to the other. Your memorialists deem it not improper briefly to refer to these facts—to which other important considerations might be added—to show the interest which the national Government have in the early completion of the proposed rail road. The last twenty five or thirty miles of the route of the proposed road, passes through a country very sparsely settled, and through lands mostly public. These lands are too poor to be of much value for cultivation, but embrace extensive forests of pine which would be valuable but for the remoteness of the lands, and the inaccessibility to any place which could furnish a market for timber. Should the proposed rail road be constructed, these lands which are now practically almost valueless, would probably be sought for on account of the timber, and become of considerable value. It would probably be within the bounds of reason to say, that they would become at least ten fold more valuable than they now are, or are ever likely to become, with the proposed rail road or some similar improvement. In view of the facts above stated, it seems manifest to your memorialists that your honorable bodies may, with the greatest propriety, make to those who propose to embark in the construction of the contemplated rail road, a donation of lands similar to the donations heretofore made to other rail road companies of this and other States. When citizens, by their labor and capital, confer great public and national benefits, which at the same time, and by the same means, they enhance the national power and

wealth, as well as the value of the national property, it seems but just and reasonable they should be encouraged and assisted by a donation of a portion of the property whose value their capital and labor will so much enhance, and especially in a case like that under consideration, when the advantages to the government, and the enhancement of the value of its property are likely so greatly to exceed the value of the donation. While, therefore, your memorialists would never ask for unrequited bounties, or donations, in behalf of any portion of their constituents, they feel fully warranted in this case to ask of your honorable bodies, as they do most respectfully, such donation of lands to aid in the construction of the proposed rail road, as may appear to your honorable bodies under the circumstances, fair and reasonable.

APPROVED, February 8, 1858.

SECRETARY OF STATE'S OFFICE,
MONTGOMERY, ALABAMA, April 1, 1858. }

I hereby certify, that the foregoing Acts, Resolutions, and Memorials, are correct copies, corrected from the original rolls deposited in this office.

JAMES H. WEAVER,
Secretary of State.

TABLE

OF THE RATES OF INTEREST IN THE STATES OF THE UNION.

Compiled in pursuance of an act approved February 18, 1848.

Maine.....6	per cent.	New Hampshire.....6	per cent.
Rhode Island.....6	" "	Connecticut.....6	" "
Massachusetts.....6	" "	Vermont.....6	" "
New York.....7	" "	New Jersey.....6	" "
Pennsylvania.....6	" "	Delaware.....6	" "
Maryland.....6	" "	Virginia.....6	" "
North Carolina.....6	" "	South Carolina.....6	" "
Tennessee.....6	" "	Kentucky.....6	" "
Ohio.....6	" "	Indiana.....6	" "
Illinois.....6	" "	Georgia.....8	" "
Alabama.....8	" "	Florida.....8	" "
Iowa.....6	" "	Wisconsin.....7	" "
California.....10	" "	Minnesota.....7	" "

Arkansas—Legal interest, 6 per cent.; conventional interest, 10 per cent.

Texas—Legal interest, 8 per cent.; conventional interest, 12 per cent.

Missouri—Legal interest, 6 per cent.; conventional interest, 10 per cent.

Michigan—Legal interest, 7 per cent.; conventional interest, 10 per cent.

Mississippi—Legal interest, 8 per cent.; on lent money, 10 per cent.

Louisiana—Legal interest, 5 per cent.; bank interest, six per cent. conventional interest, 10 per cent.

SECRETARY OF STATE'S OFFICE,
MONTGOMERY, ALABAMA, April 1, 1858. }

Certified to be correct.

J. H. WEAVER,
Secretary of State.

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 E R R A T A :

On page 388, read *U. T. Cleveland*, instead of *W. T. Cleveland*.
 On page 66, read *Chattooga*, instead of *Chattanooga*.

[No. 474.]

AN ACT

To establish jury trials in justices' courts.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That from and after the passage of this act, any person being dissatisfied with the judgment of any justice of the peace, may within five days thereafter, appeal to a jury, on giving bond with good and sufficient security in double the amount of the judgment and cost, conditioned for the payment of the eventual condemnation money; and the justice before whom the same was originally tried, his successors in office, or any other justices of the peace in the county may issue subpoenas for all witnesses that the parties in such appeal may desire.

SEC. 2. *Be it further enacted,* That all such appeals shall be tried before any one or more justices of the peace in the precinct in which the cause originated, by five jurors to be drawn, sworn and empannelled, as hereinafter directed, whose verdict shall be final and conclusive between the parties, unless removed by *certiorari*, or appeal to the next circuit court of the county, and the jury shall be empannelled, and sworn, and the trial conducted and the evidence admitted in the same manner as in the circuit courts of this State; and the justice shall enter up judgment on his docket in accordance with the verdict of said jury, and issue execution thereon as in other cases before justices' of the peace.

SEC. 3. *Be it further enacted,* That the mode of drawing juries under this law, shall be as follows: The justices' of the peace in each precinct, shall once in two years, make a list of all persons liable to serve on juries in the circuit courts, who reside in such precinct, and shall write the name of each person so liable on a separate piece of paper, which shall be deposited in a box, marked number, one; and shall draw therefrom not less than five nor more than seven of the names so deposited, from time to time as may be necessary to try the causes so pending in said justices' courts, which names shall be entered in the justice's docket, and deposited in a box, marked number two; and after all the names are drawn from number one, they shall commence drawing from number two, and so on alternately.

SEC. 4. *Be it further enacted,* That the justice or justices of each precinct, may draw a jury at any time within five days after judgment is rendered, should an appeal be demanded within said five days, and any person so drawn and

Dissatisfied.

Issue subpoenas.

Justices of peace.

Enter judgment.

Drawing jurors.

Within five days.

summoned by a constable, three days before court, neglecting to attend, shall be subject to the same fines and forfeitures that witnesses are for failing to attend justice's courts, and shall be proceeded against in the same manner, and under the same rules as witnesses are; and in all cases of deficiency of jurors, the constable, by direction of the justice shall fill and complete said jury from the bystanders:

Provided, That there shall not be less than three of the original panel on said jury. And said jury shall be entitled to receive fifty cents each for their attendance, which shall be taxed in the bill of costs. Proviso.

SEC. 5. *Be it further enacted*, That the justices' of the peace shall issue a *venire facias* for the jury so drawn, returnable to the next regular term of said court, as provided in section 2764 of the Code. And it shall be the duty of the constable at least three days before court to summons the jurors so drawn to attend said court, and the following oath shall be administered to the jury by the justice of the peace, before any cause is submitted for their consideration: "You, and each of you, do solemnly swear that you will well, and truly try all issues submitted to you by the court during this day, and a true verdict render according to the law and the testimony, so help you God." And the following fees shall be allowed for the services herein directed to be performed, to be paid by the party cast in the suit, and taxed in the bill of costs: To the justice for presiding at the trial, fifty cents, for issuing *venire facias*, twenty-five cents, for issuing summons to each witness, ten cents; to the constable for attending the trial, fifty cents, for serving *venire facias*, fifty cents, for summoning each witness, twenty-five cents; to the witness fifty cents each. Venire facias.

SEC. 6. *Be it further enacted*, That jury trials within the meaning of this act shall be had on a regular court day, as provided for in section 2764 of the Code, unless it shall be necessary to adjourn said court to a stated time, not beyond ten days, in order to dispose of the cause or causes pending in said court. Oath.

SEC. 7. *Be it further enacted*, That all laws and parts of laws, special or general, contravening the provisions of this act be, and the same are hereby repealed: *Provided*, That the provisions of this act shall not apply to the counties of DeKalb and Cherokee. Bill of costs.

APPROVED, February 5, 1858. Proviso.

[NOTE.—The above Act was overlooked, and was not handed to the printer until the last form of the acts had been printed.—STATE PRINTER.]

LEGISLATURE OF ALABAMA.

SESSION OF 1857 AND 1858.

List of Senators, with their Postoffice and District.

SENATORS.	POST OFFICE.	DISTRICTS.
Calhoun, J. M., President.....	Richmond.....	Dallas.....
Phelan, J. H., Secretary.....	Rockford.....	Coosa.....
Brittan, P. H. Assistant Secretary.....	Montgomery.....	Montgomery.....
Bain, W. L., Engrossing ".....	Turkey Town.....	Cherokee.....
Padget, W. J., Door-Keeper.....	Princeton.....	Jackson.....
Abernathy, Miles W.....	Jacksonville.....	Calhoun.....
Agce, N. A.....	Claiborne.....	Baldwin, Monroe, and Clarke.....
Austin, William A.....	Stevenson.....	Jackson.....
Bullock, Edward C.....	Eufaula.....	Barbour.....
Bynum, Oakley H.....	Courtland.....	Lawrence, Hancock, and Walker.....
Burnett, T. J.....	Greenville.....	Lowndes and Butler.....
Calhoun, James M.....	Richmond.....	Dallas and Wilcox.....
Carter, G. W.....	Guerryton.....	Macon.....
Clitherall, A. B.....	Carrollton.....	Pickens.....

List of Senators, with their Postoffice and District.—Continued.

SENATORS.	POST OFFICE.	DISTRICTS.
Cocke, J. F.....	Marion.....	Perry and Bibb.....
Crawford, Daniel.....	Rockford.....	Coosa.....
Deas, James S.....	Mobile.....	Mobile.....
Felder, Adam C.....	Montgomery.....	Montgomery and Autauga.....
Fleming, William.....	Huntsville.....	Madison.....
Griffin, A. B.....	Opelika.....	Russell.....
Heflin, Robert C.....	Weedowee.....	Randolph.....
Hill, George.....	Sylacogga.....	Talladega.....
Horn, Daniel H.....	Indigo Head.....	Coffee, Covington, and Conecuh.....
Jemison, R., Jr.....	Tuscaloosa.....	Tuscaloosa.....
Jones, Allen C.....	Greensboro'.....	Greene and Marengo.....
Jones, Elliott P.....	Fayette C. H.....	Marion and Fayette.....
Lindsay, R. B.....	Tuscumbia.....	Franklin.....
McKinne, James.....	Campbellton, Florida.....	Dale and Henry.....
McSpadden, S. K.....	Centre.....	Cherokee.....
Mitchell, Robert.....	Lafayette.....	Chambers.....
Patton, R. M.....	Florence.....	Lauderdale.....
Rather, John D.....	Decatur.....	Limestone and Morgan.....
Rayburn, S. K.....	Guntersville.....	Marshall and DeKalb.....
Rowe, John.....	Dadeville.....	Tallapoosa.....
Storrs, John S.....	Montevallo.....	Jefferson and Shelby.....
Thaxton, William.....	Mount Nile.....	Blount and St. Clair.....
Thompson, Henry B.....	Perote.....	Pike.....
Woodward, William.....	Pelham.....	Sumter, Choctaw, and Washington.....

LIST OF REPRESENTATIVES, WITH THEIR COUNTIES AND POST OFFICES.

COUNTIES.	REPRESENTATIVES.	POST OFFICE.
Autauga.....	Crawford M. Jackson, Speaker House of Rep'tatives.	Montgomery.....
Montgomery.....	Albert Elmore, Principal Clerk do	".....
Calhoun.....	Wm. M. Hames, Assistant do	Jacksonville.....
DeKalb.....	C. C. Carden, Engrossing do	Van Buren.....
Lawrence.....	Jere. Gibson, Door-Keeper do	Moulton.....
Montgomery.....	Frederick LaForge, Page do	Montgomery.....
Barbour.....	H. D. Clayton.....	Clayton.....
".....	John C. McRae.....	Louisville.....
".....	M. A. Browder.....	Glennville.....
Baldwin.....	Joseph Nelson.....	Dudleyville.....
Calhoun.....	John H. Caldwell.....	Jacksonville.....
".....	John H. Wright.....	".....
".....	John J. Baugh.....	Morrisville.....
Bibb.....	Robert Parker.....	Centreille.....
Blount.....	Thomas W. Staton.....	Brooksvill.....
".....	William H. Edwards.....	Blountsville.....
Butler.....	Samuel Adams.....	Greenville.....
".....	A. B. Scarborough.....	Monterey.....
Chambers.....	Samuel Jeter.....	Chambers Court House..
".....	George W. Allen.....	".....

List of Representatives, with their Counties and Post Offices.—Continued.

COUNTIES.	REPRESENTATIVES.	POST OFFICES.
Cherokee.....	L. M. Stiff.....	Centre.....
".....	A. G. Bennett.....	Gadsden.....
".....	Thomas Espy.....	Leesburg.....
".....	Wm. A. Richardson.....	Rio Grande.....
Choctaw.....	Ambrose Cullum.....	Bladon Springs.....
".....	John W. Pennington.....	Pelham.....
Clarke.....	James J. Goode.....	Grove Hill.....
Coffee.....	Jeremiah Warren.....	Elba.....
Conecuh.....	J. D. Cary.....	Sparta.....
Coosa.....	Alexander Smith.....	Nixburg.....
".....	George E. Brewer.....	Rockford.....
".....	Evan Calfee.....	Weogufka.....
Covington.....	Alfred Holly.....	Andalusia.....
Dallas.....	T. E. Irby.....	Cambridge.....
".....	A. G. Mabry.....	Selma.....
Dale.....	Haywood Martin.....	Netsville.....
".....	Elias Register.....	Campbellton, Florida.....
DeKalb.....	R. W. Higgins.....	Lebanon.....
".....	A. W. Majors.....	".....
Wayette.....	Andrew J. Coleman.....	Mill Port.....
".....	James Brock.....	Big Pond.....
Franklin.....	Robert E. Bell.....	Tuscombua.....
".....	William M. Jackson.....	South Florence.....
Greene.....	S. F. Hale.....	Eutaw.....
".....	Robert D. Huckabee.....	Greensboro.....
Hancock.....	A. Little.....	Littleville.....

List of Representatives, with their Counties and Post Offices.—Continued.

COUNTIES.	REPRESENTATIVES.	POST OFFICES.
Henry	James Pynes.....	Open Pond.....
"	James Murphy.....	Lawrenceville.....
Jackson	J. B. Talley.....	Stevenson.....
"	J. S. Fustace.....	Princeton.....
"	J. M. Cloud.....	Belleville.....
Jefferson	O. S. Smith.....	Jonesborough.....
Lauderdale	S. A. M. Wood.....	Florence.....
"	H. D. Smith.....	Gravelly Spring.....
Lawrence	H. A. McGhee.....	Moulton
"	James S. Clarke.....	"
Limestone	Thomas H. Hobbs.....	Athens
"	William M. Reedus.....	"
Lowndes	James S. Williamson.....	Sandy Ridge.....
"	Duncan McCall.....	Lowndesboro.....
Macon	J. W. Echols.....	Tuskegee.....
"	B. F. Thompson.....	Union Springs.....
"	Thomas F. Flournoy.....	Society Hill.....
Madison	S. S. Scott.....	Shuntsville.....
"	S. W. Harris.....	"
Marshall	James L. Sheffield.....	Warrenton
"	William M. Griffin.....	"
Marengo	N. B. Lesueur.....	McKinley
Marion	Kimbro T. Brown.....	Baxar
"	Levi Kennedy.....	Moscow
Mobile	William G. Jones.....	Mobile.....
"	Henry Chamberlain.....	"

List of Representatives, with their Counties and Post Offices.—Continued.

COUNTIES.	REPRESENTATIVES.	POST OFFICES.
Mobile.....	Henry F. Drummond.....	Mobile.....
".....	x Thomas H. Herndon.....	".....
Monroe.....	F. F. Richardson.....	Clauseville.....
Montgomery.....	Charles H. Molton.....	Montgomery.....
".....	James R. Dillard.....	Oakley.....
Morgan.....	R. N. Walden.....	Decatur.....
Perry.....	G. D. Johnson.....	Marion.....
".....	Alexander Q. Bradley.....	".....
Pickens.....	Z. L. Nabers.....	Carrolton.....
".....	A. L. Neal.....	Providence.....
Pike.....	J. D. Murphree.....	Troy.....
".....	J. C. Baskins.....	Bruceville.....
".....	J. Boatright.....	Monticello.....
Randolph.....	William H. Smith.....	Weedowee.....
".....	A. W. Denman.....	Arbacoochee.....
".....	Isaac S. Weaver.....	Louina.....
Russell.....	John S. Colbert.....	Villula.....
".....	Clark Aldridge.....	Salcm.....
Shelby.....	N. B. Mardis.....	Columbiana.....
".....	J. P. Morgan.....	Montevallo.....
St. Clair.....	Richmond Hammonds, Jr.....	Ashville.....
Sumter.....	Robert F. Houston.....	Livingston.....
Talladega.....	J. B. Martin.....	Talladega.....
".....	D. H. Remson.....	Kelly's Springs.....
".....	J. T. Bell.....	County Line.....
Tallapoosa.....	Michael J. Bulger.....	Dadeville.....

List of Representatives, with their Counties and Post Offices.—Continued.

COUNTIES.	REPRESENTATIVES.	POST OFFICES.
Tallapoosa.....	Joseph Johnson.....	Wind Creek.....
".....	H. M. Simpson.....	Emuckfaw.....
Tuscaloosa.....	N. H. Brown.....	Tuscaloosa.....
".....	E. A. Powell.....	".....
Walker.....	William Beid.....	Gap.....
Washington.....	J. B. Slade.....	New Wakefield.....
Wilcox.....	Felix Tait.....	Camden.....